

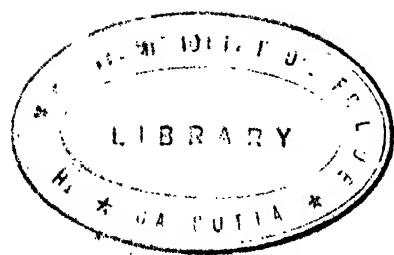
**The Ramakrishna Mission
Institute of Culture Library**

Presented by

Dr. Baridbaran Mukerji

RMICL—8

16385



HISTORY
OF THE
LORD CHANCELLORS
OF
IRELAND,
FROM A.D. 1186 TO A.D. 1874.

BY
OLIVER J. BURKE, A.B. T.C.D.,
BARRISTER-AT-LAW;
AUTHOR OF "THE ABBEY OF ROSS," "HISTORY OF THE CONNAUGHT CIRCUIT,"
ETC., ETC.

DUBLIN:
E. PONSONBY, 116, GRAFTON-STREET.
LONDON: LONGMANS, GREEN, & CO., PATERNOSTER-ROW.
1879.

DUBLIN:
 Printed at the University Press,
 BY PONSONBY & MURPHY.

R.M.C. LIBRARY	
Acc. No	16385
Class No.	923.2415
Date	1811
St. Card	
Class.	112
Cat.	112
Sk. Card	✓
Checked	Reg.

TO
THE RIGHT HONORABLE LORD O'HAGAN.

MY LORD,

WHEN the O'Neils were sovereigns of Ulster, the office of Chief Brehon or Chancellor belonged for many centuries to the Chief of the tribe of O'Hagan, with the territorial title of Lord of Tullaghogue. The sceptre, however, in the revolution of things, departed from the O'Neils—another kingdom was set up, and the O'Hagans, their race and their religion, were proscribed in the land of their birth. During three centuries and a-half, for a "time and times and half a time" they were disabled from filling those high offices in the State: and it is not unworthy of remark that you, my Lord, the first Catholic who for many generations has occupied the chief place in the Court of Chancery, bear the same name and the same title of honour that the Chief Brehon of the O'Neils bore in the old times before us.

It is with pleasure, then, and with pride, that I dedicate to your Lordship this work on the LORD CHANCELLORS OF IRELAND.

I have the honour to be,

My Lord,

Your Lordship's obedient Servant,

OLIVER J. BURKE.

7, ADELAIDE TERRACE, MOREHAMPTON ROAD,

Dublin, 31st March, 1879.

Memorabilia

PREFACE.

IT is now some years since I was first led to investigate the subject of which the following pages treat. In the course of my professional duties a considerable amount of antiquarian research was often necessary; and the study of ancient patents and of other old-world documents naturally led me to inquire into the lives of the men by or through whom they had been executed. Amongst those the Chancellors were ever first in place and were often first in intellect and influence, and to them therefore my attention was most frequently directed. It may be, too, that the natural bent of my mind led me to grope through the dark ways of history—to disinter long-buried memories—to commune with the spirits of the dead, of the “mighty men of old, men of renown,” whose policy for good or for evil has moulded the destinies of our country. And there was much in all this very fascinating to the imagination. Amongst the Chancellors were some, the founders of Houses which have long since been famous; while others belonged to the historic races “nobler than the royalty that first ennobled them.” Cowled monks and mitred prelates and mail-clad knights from the Hospital help in more ancient times to swell the number; while in later years the Sage, the Philosopher, the Statesman, and the Wit have adorned by their merit the elevated position to which they had attained. Venerable men—they maintained the dignity of Justice on the highest seat of Justice; and few amongst them were ever accused, and none were ever convicted, of having

suffered the sacred balance to be weighted with gold. Hesiod, in his book "Of Works and Days," calls the judges of Grecco "the bribe-devouring judges." The judges of Ireland are free from this reproach. In a word, then, partly the bent of my mind, partly the course of study to which chance or business led me, have induced me to explore the histories of the Lord Chancellors of Ireland, and it seemed to me a pity that what had cost so much trouble to accumulate should lie upon its shelf and be forgotten! For this reason I published some years since the first outlines of the present work in the *Dublin University Magazine*. I had already printed as far as the life of the eighty-fourth Chancellor, when my learned and accomplished friend Mr. James Roderick O'Flanagan produced a valuable work on the same subject, and I should therefore probably have hesitated to continue my labours had he not brought his to a conclusion with the one hundred and eleventh Chancellor, Lord Plunket, while I had already accumulated materials for the lives of his seven successors. I persisted, therefore, in my original design. Some friends have recently counselled me to gather those separate papers into a single volume and to recast the whole. I felt at first much disinclination to act on this advice; but to listen is to yield! and the partiality with which a writer views the child of his thought has led me into what perhaps is the imprudence of yielding to the suggestion of my friends. The result of my labours is the book which I now present to the public.

OLIVER J. BURKE.

OWER, HEADFORD,
31st March, 1879.

INTRODUCTION

THE Lord Chancellors of Ireland had, from the conquest by Henry II. until the close of the reign of Edward III., in 1377, a wide jurisdiction in this country. Thenceforward, and all through the reign of Richard II., and during the long contests between the Houses of York and Lancaster, the power of England here declined, and at the opening of the reign of Henry VIII. there was nothing left of English dominion in Ireland beyond the narrow limits of the Pale, which extended from Dundalk on the north to Dalkey on the south, forty-seven miles asunder, and from Dublin to Kilcock on the west, fifteen miles. The jurisdiction of the Chancellors, as a matter of course, extended no farther, save to a few English colonies in Wexford, Waterford, Cork, and Galway.*

The Plea Rolls of the Courts are not bad criterions of the extent of English law and power at different epochs in Ireland. During the reigns of Henry III., Edward I., Edward II., and Edward III., they are all large and well written. Pleas and assizes were then held in most parts of Ireland; and plea follows plea in all the regularity of form and precedent. But at the close of the fourteenth century they become ill written and diminished in size, and the Plea Rolls continue to decrease from ninety membranes per term in the reign of Edward III. to four in the reign of Henry VI. Declining in

* *Vid.* "Cause of the Decay of Irelande, by Patrick Finglas, one of the Barons of the Excheq.," A.D. 1524. Carew MSS., *temp.* Hen. VIII., p. 1.

influence, the English power had almost vanished in the year 1500. But the tide of fortune turned in the reign of Henry VIII., and within sixty years from his death the whole country was brought under the sway of James I. The area of the Chancellors' jurisdiction was then established all over the country, and English law took the place of the Brehon code.

The Courts of Law were in the year 1300 held at Collet's Inn, outside the city walls, on the ground on which Exchequer-street now stands. Here, unwisely it would seem, the Exchequer was located. The lawyers were lodged in this inn; but in 1348, upon a day when the Lord Deputy and the garrison were absent, the Byrnes, making a swoop from their rocky homes in the Wicklow mountains, came down on the money-chests, put the lawyers to flight, demolished the inn, and returned homewards laden with plunder. Sir Robert Preston, Chief Justice of the Common Pleas, taking compassion on the houseless lawyers, assigned them his house on the spot now occupied by the City Hall, at the south end of Parliament-street, where for two hundred years "Preston's Inn" was their home. Meanwhile the Courts of Chancery and of Law became ambulatory, being sometimes held in Carlow and sometimes in Drogheda, but more frequently in the Castle of Dublin. On the suppression of St. Patrick's Cathedral by Henry VIII. they were transferred to its venerable walls; but on its restoration by Queen Mary to its original destination, the Courts again found refuge in Dublin Castle: in 1695 they were thence removed to Christ Church Lane, where they were held for 101 years, until 1796, when they were finally removed to the present buildings, on the site of the King's Inns on the Inns-quay—for the King's Inns had been held there since 1542, in the grand old priory of St. Dominick, then suppressed.¹

The Benchers, on the Inns being thus converted into the Four Courts, purchased from the Dean and Chapter of Christ

¹ *Vid.* Recitals in 38 Geo. III. chap. xlix. (Ir.).

Church Cathedral a plot of ground, containing about three acres, and thereon erected the buildings now denominated The King's Inns.

Before entering upon our history of the Chancellors, we have to call the attention of our readers to the fact that the great measure with which the names of Lord Clare, George Ponsonby, and Lord Plunket are so intimately connected—the Union—is only alluded to cursorily in their memoirs; but is treated at length in the note which will be found at page 351.

ERRATA.

- Page 11, line 9, "archbishop" should be "archbishops."
- „ 12, 7th last line, "Sir Ralph who" should be "Sir Halph D'Ufford, who."
- „ 13, 14th last line, "wrote the Lord Deputy" should be "wrote to the Lord Deputy."
- „ 21, line 21, "A. D. 1430" should be "A. D. 1413."
- „ 23, line 1, *for* "Chancellor" *read* "Vice-Chancellor."
- „ 31, line 16, "Henry" should be "Henry VII."
- „ 37, line 3, omit word "first."
- „ 59, line 1, *for* "in the parish church, in which" *read* "in the parish church of which."
- „ „ 7th last line, *for* "Igalda" *read* "Isolda."
- „ 87, line 16, "the limits of *our* work."
- „ 89, line 21, "returned" should be "retired."
- „ „ 13th last line, *for* "1782" *read* "1702."
- „ 105, 15th last line, *for* "From the time of his return to England" *read* "From the time of his return *from* England."
- „ 125, 6th last line, "third" Earl of Anglesey should be "fifth."
- „ 145, lines 20, 21, "observers of great" should be "of *your* great."
- „ 179, 10th last line, "29th of July" should be "2nd of August."
- „ 293, line 8, *for* "Ballymullen" *read* "Ballyfallon."

LORD CHANCELLORS OF IRELAND.

THE following are the names of the Lord High Chancellors of Ireland, as they appear in the Rolls, from the year 1186 to the present time. The dates given below are those at which they received for the first time the Seals. Thus Lord St. Leonards was Chancellor from 1841 to 1846, but he had previously been so for a few weeks in 1835, and it is his first appointment alone that is noticed in the subjoined Table. For convenience of reference, to ascertain under what sovereign any particular Chancellor may have held the Seals, a table of regnal years is given at page xviii.

1. A. D. 1186.—Stephen de Riddel.
2. A. D. 1219.—John de Worchley.
3. A. D. 1230.—Fromund le Brunn.
4. A. D. 1232.—Ralph De Neville, Bishop of Chichester.
Campbell's Lives of the Lord Chancellors of England,
vol. i. 127; *Le Neve's Fasti Ecclesiæ Anglicanæ*, vol. i.
240.
5. A. D. 1235.—Alan of the Holy Faith.
Cotton's Fasti Ecclesiæ Hiberniæ, 121.
6. A. D. 1236.—Robert de Luttrell.
Mason's Hist. of St. Patrick's Cathedral.
7. A. D. 1237.—Geoffry de Turville.
8. A. D. 1237.—Ralph Bishop of Norwich.
Le Neve's Fasti Ecclesiæ Anglicanæ; *Dalton's Arch-*
bishops of Dublin, 95.
9. A. D. 1245.—William Wilward.
10. A. D. 1259.—Fromund Le Brunn.
Dalton's Archbishops of Dublin, p. 103.
11. A. D. 1283.—Walter de Fulburn.

12. A. D. 1285.—William de Beaclerc.
13. A. D. 1292.—Thomas Cantoc, Bishop of Emlý.
Ware's Irish Bishops; Morrin's Patent Rolls, xii.
14. A. D. 1293.—Walter do Thornbury.
Mason's Hist. of St. Patrick's Cathedral.
15. A. D. 1294.—Adam de Woddington.
16. A. D. 1307.—Richard Beresford.
17. A. D. 1317.—W. Fitz John, Archbishop of Cashel.
Ware's Irish Bishops.
18. A. D. 1321.—Roger Outlawe, Prior of Kilmainham.
• Hist. of the Priory of Kilm., p. 42; Dalton's Co. Dublin;
Trial of the Dame Alice Kettler, published in Latin by
the Camden Society; Clynn's Annals for 1324; Harleian
MSS.; Archdall's Monasticon.
19. A. D. 1325.—Alexander de Bicknor, Archbishop of Dublin.
Dalton's Archbishops of Dublin.
20. A. D. 1330.—Adam de Limberg.
21. A. D. 1331.—William Prior of Kilmainham.
History of the Priory of Kilmainham.
22. A. D. 1337.—Thomas Charleton, Bishop of Hereford.
Le Neve's Fasti Eccl. Anglicanæ, vol. i. 462.
23. A. D. 1338.—Robert de Henningsberg.
24. A. D. 1340.—Robert de Askeby.
25. A. D. 1341.—John L'Archer, Prior of Kilmainham.
History of the Priory of Kilmainham.
26. A. D. 1346.—John Morris.
27. A. D. 1350.—John de St. Paul, Archbishop of Dublin.
Dalton's Archbishops of Dublin.
28. A. D. 1356.—Richard d'Askeaton.
29. A. D. 1357.—John de Frowick, Prior of Kilmainham.
History of the Priory of Kilmainham.
30. A. D. 1357.—Thomas de Burleigh, Prior of Kilmainham.
History of the Priory of Kilmainham; Gilbert's Viceroy's
of Ireland, p. 226; Cox's History of Ireland.
31. A. D. 1363.—Robert de Askeaton, Prior of Newtown.
Archdall's Monasticon.
32. A. D. 1368.—Thomas le Revi, Bishop of Waterford.
Ware's Bishops; Statute of Kilkenny, by Hardiman, in
Tracts Relating to Ireland, 97-106.
33. A. D. 1371.—John de Rotheby.

34. A. D. 1372.—William Taney, Prior of Kilmainham.
Patent Rolls, Close Rolls, II. f. R. 3.
35. A. D. 1377.—Robert de Wickford, Archbishop of Dublin.
Dalton's Archbishops of Dublin.
36. A. D. 1377.—Alexander Balcott, Bishop of Ossory.
37. A. D. 1379.—John Colton, Archbishop of Armagh.
Ware's Irish Bishops.
38. A. D. 1387.—Richard White, Prior of Kilmainham.
History of the Priory of Kilmainham.
39. A. D. 1391.—Sir Robert Preston.
40. A. D. 1391.—Robert Walby, Archbishop of York.
Dalton's Archbishops of Dublin; Le Neve's *Fasti Ecclesiae Anglicanae*.
41. A. D. 1393.—Richard Northalis, Bishop of Ossory.
Patent Rolls.
42. A. D. 1397.—Robert de Baybroke, Bishop of London.
Le Neve's *Fasti Ecclesiae Anglicanae*.
43. A. D. 1398.—Thomas Cranly, Archbishop of Dublin.
Dalton's Archbishops of Dublin.
44. A. D. 1410.—Patrick Barret, Bishop of Ferns.
Ware's Irish Bishops.
45. A. D. 1413.—Sir Laurence Merbury.
Grace's *Annals*, p. 147, n.; Davis's *Discovery*, 143, 144;
vide Errata, supra, p. x.
46. A. D. 1416.—William Fitz Thomas, Prior of Kilmainham.
History of the Priory of Kilmainham.
47. A. D. 1423.—Richard Sedgrave.
48. A. D. 1423.—William Tinbreagh.
49. A. D. 1423.—Richard Talbot, Archbishop of Dublin.
Dalton's Archbishops of Dublin; Gilbert's *Viceroy's of Ireland*, 311, 312, p. 22, line 21.
50. A. D. 1426.—Sir Robert Fitz Eustace.
51. A. D. 1438.—Thomas Chace.
52. A. D. 1446.—Richard de Wogan.
53. A. D. 1446.—Sir John Talbot.
54. A. D. 1449.—Thomas FitzGerald, Abbot.

55. A. D. 1451.—Edmund Ouldhall, Bishop of Meath.
Ware's Bishops of Meath.
56. A. D. 1453.—Sir Edward Fitz Eustace.
Gilbert's Viceroy's of Ireland.
57. A. D. 1459.—The Earl of Rutland.
Gilbert's Viceroy's of Ireland, 369. 6
58. A. D. 1460.—John Dynham.
59. A. D. 1461.—Sir William Welles.
60. A. D. 1462.—The Earl of Worcester.
Journal of the Historical and Archæological Society of
Ireland, vol. i., 3rd series, p. 13.
61. A. D. 1463.—The Earl of Kildare.
Gilbert's Viceroy's of Ireland; Betham's Constitutional
History of Ireland, 367.
62. A. D. 1468.—Robert Allameston.
63. A. D. 1468.—Sir William Dubley.
- 64 } A. D. 1472.—Lord Portlester and John Taxton, jointly.
& } Gilbert's Viceroy's of Ireland; History of the Earls of
65 } Kildare.
66. A. D. 1474.—George de Venbam.
67. A. D. 1480.—William Sherwood, Bishop of Meath.
68. A. D. 1481.—Laurence de St. Lawrence.
69. A. D. 1483.—Lord Howth.
70. A. D. 1483.—Thomas Fitzgerald.
History of the Earls of Kildare; Kennett's History of
England, vol. ii. 587.
71. A. D. 1492.—Sir Alexander Plunket.
72. A. D. 1494.—Henry Deane, Archbishop of Canterbury.
Hooke's Lives of the Archbishops of Canterbury, vol. v.
507.
73. A. D. 1496.—Walter Fitzsimons, Archbishop of Dublin.
Dalton's Archbishops of Dublin.
74. A. D. 1498.—William Rokeby, Archbishop of Dublin.
Dalton's Archbishops of Dublin.
75. A. D. 1509.—Lord Howth.
Lodge's Peerage, tit. Howth.
76. A. D. 1513.—Sir William Compton.
Sir Bernard Burke's Visitation of Seats and Arms, edition
1854, 2nd series, p. 48; Playfair's Family Antiquities,
vol. i. 264.

77. A. D. 1527.—Hugh Inge, Archbishop of Dublin.
Dalton's Archbishops of Dublin.
78. A. D. 1528.—John Allen, Archbishop of Dublin.
Dalton's Archbishops of Dublin; State Papers, *temp.* Henry VIII., Contents; Carew MSS. *temp.* Henry VIII., Index; Morrin's Patent Rolls, Index; Renehan's Irish Church History.
79. A. D. 1532.—George Cromer, Archbishop of Armagh.
Ware's Archbishops of Armagh.
80. A. D. 1534.—Lord Trimleston.
Ware's List; Playfair's Family Antiquities.
81. A. D. 1538.—Sir John Allen.
Morrin's Patent Rolls; State Papers, *temp.* Henry VIII., vols. ii. and iii.
82. A. D. 1547.—Sir Richard Reade.
Morrin's Patent Rolls; State Papers, *temp.* Henry VIII., vols. ii. and iii.
83. A. D. 1550.—Sir Thomas Cusack.
Morrin's Patent Rolls; State Papers, p. 45; Carew MSS. *temp.* Edward VI.
84. A. D. 1555.—Hugh Curwen, Archbishop of Dublin.
(Authorities given in text).
85. A. D. 1567.—Robert Weston.
Mason's History of St. Patrick's Cathedral; Carew MSS., vol. ii. p. 92; State Papers; Hollingshed's Chronicles.
86. A. D. 1576.—William Gerrard.
Mason's History of St. Patrick's Cathedral; Hollingshed's Chronicles; Carew MSS.; Morrin's Patent Rolls.
87. A. D. 1581.—Adam Loftus, Protestant Archbishop of Dublin.
Mason's History of St. Patrick's Cathedral; Hollingshed's Chronicles; State Papers, *temp.* Elizabeth.
88. A. D. 1605.—Thomas Jones, Protestant Archbishop of Dublin.
Dalton; Ware; in addition to authorities given in text.
89. A. D. 1619.—Lord Ely.
Dalton; Ware; Elrington's Life of Archbishop Usher, 82; Strafford's Letters, vol. ii. 67–72; Carte's Life of Ormond, vol. i. 235; Clarendon's History of the Rebellion, 390, 391; Rushworth's Collections, vol. viii. 221; Cox's History of Ireland, 67.
90. A. D. 1638.—Sir Richard Bolton.
Rinuccini Papers; other authorities in text.
91. A. D. 1656.—Sir William Steele.
Fosse's Dictionary of the Judges of England.

92. A. D. 1660.—Sir Maurice Eustace.
Carte's *Life of Ormond*, vol. ii.
93. A. D. 1665.—Michael Boyle, Protestant Archbishop of Armagh.
Ware.
94. A. D. 1686.—Sir Charles Porter.
Lives of the Norths, vol. ii. 192-94; Shirley *v.* Fagg, *State Trials*; Hommersham Cox's *Institutions of the English Government*, 476; Clarendon's *State Letters*, 148-170.
95. A. D. 1686.—Sir Alexander Fitton.
(All the Records of the Parliament of James II. were publicly burnt.) Morrin's *Patent Rolls*, Preface, p. xviii.; Copy of an Act of James II. Repealing the Act of Settlement; Plowden's *Review*, vol. i.; *Memoirs of James II.*, vol. ii. 328-9.
96. A. D. 1696.—John Methuen.
Fenwick's Case; *State Trials*, vol. xiii. 712; Chalmer's *Collection of Treaties*, vol. ii. 307.
97. A. D. 1703. Sir Richard Cox.
Archdall's *Ware*; *Life of Cox*, p. 250.
98. A. D. 1707. —Richard Freeman.
(Authorities in text).
99. A. D. 1710.—Sir Constantine Phipps.
Craik's *Romance of the Peerage*; *State Trials*; Dalton's *Archbishops of Dublin*, p. 462; *Lords' Journals*.
100. A. D. 1714.—Lord Middleton.
Lords' Journals, vol. ii. 660.
101. A. D. 1725.—Richard West.
(Authorities in text).
102. A. D. 1726.—Lord Wyndham.
Boulter's Letters, Index; *Lords' Journals* (Ir.).
103. A. D. 1739.—Lord Jocelyn.
Lords' Journals; *Clanricarde's Memoirs*.
104. A. D. 1756.—Lord Bowes.
(Authorities given in text.) Burke's *Extinct Peerage*, tit. Lord Anglesey.
105. A. D. 1767.—Lord Lifford.
Dalton's *Archbishops of Dublin*, 474-6; *Journal of the Duke of Grafton*; *Parliamentary Debates*; *Lords' Journals*.

106. A. D. 1789.—Lord Clare.
Journals of the Houses of Lords and Commons (Ir.), vol. ix., part i. 304; Hardy's Life of Lord Charlemont; Irish Parliamentary Debates; Curran's Life by his Son; *Dublin Evening Post*; *Pus's Occurrences*; Lord Clonmel's Diary; Grattan's Speeches; Authorities in text; Sir Jonah Barrington.
107. A. D. 1802.—Lord Redesdale.
(Authorities in the text.) Hansard's Parliamentary Debates.
108. A. D. 1806.—George Ponsonby.
Irish Parliamentary Debates: English do., Hansard.
109. A. D. 1807.—Lord Manners.
Hansard's Parliamentary Debates; Fosse's Judges of England; Recollections of Lord Cloncurry; Sheil's Legal and Political Sketches.
110. A. D. 1827.—Sir Anthony Hart.
Law Recorder.
111. A. D. 1830.—Lord Plunket.
(Authorities in the text.) Hansard's Parliamentary Debates.
112. A. D. 1835.—Lord St. Leonards.
113. A. D. 1841.—Lord Campbell.
114. A. D. 1846.—Sir Maziere Brady.
115. A. D. 1852.—Francis Blackburne.
116. A. D. 1857.—Sir Joseph Napier.
117. A. D. 1867.—Abraham Brewster.
118. A. D. 1868.—Lord O'Hagan.
119. A. D. 1874.—John Thomas Ball.

TABLE OF REGNAL YEARS OF THE SOVEREIGNS OF ENGLAND SINCE THE CONQUEST OF IRELAND.

A. D. 1172.—Henry II.	A. D. 1553.—Mary I.
A. D. 1189.—Richard I.	A. D. 1558.—Elizabeth.
A. D. 1199.—John.	A. D. 1603.—James I.
A. D. 1216.—Henry III.	A. D. 1625.—Charles I.
A. D. 1272.—Edward I.	A. D. 1649.—Commonwealth.
A. D. 1307.—Edward II.	A. D. 1660.—Charles II.
A. D. 1327.—Edward III.	A. D. 1685.—James II.
A. D. 1377.—Richard II.	A. D. 1689.—William III. and Mary II.
A. D. 1399.—Henry IV.	A. D. 1694.—William III. alone.
A. D. 1413.—Henry V.	A. D. 1702.—Anne.
A. D. 1422.—Henry VI.	A. D. 1714.—George I.
A. D. 1461.—Edward IV.	A. D. 1727.—George II.
A. D. 1483.—Edward V.	A. D. 1760.—George III.
A. D. 1483.—Richard III.	A. D. 1820.—George IV.
A. D. 1485.—Henry VII.	A. D. 1830.—William IV.
A. D. 1509.—Henry VIII.	A. D. 1837.—VICTORIA.
A. D. 1547.—Edward VI.	

*David Aaron McKeg
1604 Ave. Row, Alberta,*

THE LORD CHANCELLORS OF IRELAND.

IN the latter days of the Roman Empire the chief notary of the Emperor was called the Chancellor. It was his duty to cancel such parts of the Imperial Edicts as appeared to him to be contrary to law. On the downfall of the western portion of the Empire, the various sovereigns who divided that vast inheritance erected each his Chancery, where functions similar to those just mentioned were performed. All the modern states of Europe have or have had their Chanceries. In France, the Chancellor was an officer whose duties were not unlike those which belong to the Lord Chancellor of Great Britain. Abolished at the Revolution, the office was restored by the first Napoleon, and its occupant was graced with the loftier title of Arch-Chancellor of France. In later years his functions have been transferred to the Minister of Justice. In Germany, Austria, and Russia, the office of Chancellor of the Empire is of the highest dignity. In Scotland, previous to the Union, in 1707, the rank and duties of Chancellor were similar to those held and performed by the Lord Chancellor of England, and now by the Lord Chancellor of Great Britain.

When the English, in the reign of Henry II., established themselves in Ireland, the government was modelled on that of England, and the great officers of the Crown for conducting public affairs were (together with a Privy Council) the Chief Governor, the Lord Chancellor, and the Lord Treasurer. Owing to the loss of the records, we can point to no Chancellor earlier than in the year 1186, fourteen years after Henry II. received the submission of the Irish potentates.

From the establishment of the Anglo-Norman power in this country, and during the hundred and thirty years succeeding, there existed a High Court of Justice—that of the Justiciary, as the Lord Lieutenant was then called—and of this Court the Chancellor and the Treasurer were members, together with such feudal barons as thought proper to attend. The language of the Courts in those times was Norman-French; the Chancellor

and other Judges, as their names indeed betoken, were French, and many of their patents were signed by the Kings of England at their palaces in Normandy or Bordeaux. We shall now commence our list with the first Chancellor of whom there is mention in history—Stephen de Riddell.

1. **A. D. 1186.**—STEPHEN DE RIDDELL was appointed by Henry II. while he held his Court at Rouën, in Normandy. Of this Chancellor nothing is known further than his name, and that he held the seals of office during the long term of thirty-three years, commencing in 1186 and terminating in 1219.

2. **A. D. 1219.**—JOHN DE WORCHLEY.

3. **A. D. 1230.**—FROMUND LE BRUNN.

4. **A. D. 1232.**—RALPH DE NEVILLE, Bishop of Chichester, a scion of an illustrious family which numbers amongst its members a Queen of England and many prelates, earls, and barons. Ralph in early life entered the Church, where his knowledge of civil and ecclesiastical law soon won for him an enviable notoriety. He was a strenuous opponent of *Magna Charta*, and to this opposition, perhaps, may be attributed his appointment of Lord High Chancellor of England and Ireland, for life. An ecclesiastical lawyer, named Geoffry de Turville, Archdeacon of Dublin, was at the same time named his deputy in Ireland. But De Neville did not uninterruptedly enjoy the royal favours, for in 1235 he was summarily removed from both offices, owing to his having been appointed Bishop of Winchester by the Pope, in opposition to the king's brother. When, however, His Majesty discovered that the Holy See had acted on the uninfluenced suggestion of the ecclesiastics who returned his name as "the most worthy," he restored De Neville, then Bishop of Winchester, to his place in the English, but not in the Irish, Court of Chancery.

5. **A. D. 1235.**—ALAN, of the Holy Faith.

6. **A. D. 1236.**—ROBERT DE LUTTREL, Treasurer of St. Patrick's Cathedral, Dublin.

7. **A. D. 1237.**—GEOFFRY DE TURVILLE, Archdeacon of Dublin, afterwards Bishop of Waterford, who had been Deputy-Chancellor to Ralph de Neville.

8. **A. D. 1237.**—RALPH, Bishop of Norwich—being at the same time a Canon of St. Patrick's Cathedral—was one of the wittiest and most amusing men of his day, and it was to his wit, rather than to his piety, that he owed his subsequent nomination, in 1256, by his brother canons, to the Archbishopric of

Dublin; but the Court of Rome, awake to the interests of the Church, disregarded the election, and rebuked the electors for having recommended a man so unfitted for the office.

9. A.D. 1245.—WILLIAM DE WILLWARD.

10. A.D. 1259.—FROMUND LE BRUNN, son of the late Chancellor of that name, held the seals for four-and-twenty years. In 1270 he was elected by the Dean and Chapter of St. Patrick's to be Archbishop of Dublin, in opposition to Wilham, chosen by the prior and convent of the Holy Trinity (now Christ Church Cathedral). Both the elections were annulled by Nicholas III., the then Pope.

11. A.D. 1283.—WALTER DE FULBURN; appointed by Edward I.

12. A.D. 1285.—WILLIAM DE BUERLACO.

13. A.D. 1292.—THOMAS DE CANTOC, Bishop of Emly, was of Norman extraction, and was appointed Chancellor in this year. In 1293 he was compelled by a summons from the Pope to attend the Court of Rome, and on his return in 1295 was reappointed to his office. In 1300 he attended a parliament held before Richard de Burgo, Earl of Ulster, by which several statutes were enacted, of which one was for the regulation of the currency, one for the regulation of servants' wages, another and a stringent one against depasturing pigs on the Curragh of Kildare, and another granting to the Prior of All Hallows (now Trinity College) four large oaks of the forest of Glencree to repair the Prior's Mill, and Bridge at the Steyne (Donnybrook). In 1306 the Lord Chancellor was consecrated Bishop of Emly, in the Church of the Holy Trinity, in the city of Dublin, in presence of vast numbers of the nobility and gentry, whom, with a magnificence unheard of in those times, he feasted right worshipfully with divers dainties, "so that all men wondered."

During Cantoc's Chancellorship, an accidental fire broke out in St. Mary's Abbey, when the records of ages were consumed. This national calamity is thus noticed in the Patent Rolls:—"Be it remembered, that all the Rolls of Chancery of Ireland were, at the time Master Thomas Cantoc was Lord Chancellor of Ireland, in the 28th year of King Edward (A.D. 1300), son of King Henry III., destroyed by an accidental fire in the Abbey of the Blessed Virgin, near Dublin, except two rolls of the same year." These two rolls—one of them called *Antiquissimæ literæ patentēs*—which contain several interesting charters and muniments of an historical nature, are yet in existence, and in the custody of the Master of the

Rolls. The Chancellor, who felt this loss bitterly, resigned, and died in the same year.

14. **A. D. 1293.**—WALTER DE THORNBURY, Chantor of St. Patrick's, was appointed Lord Chancellor on the departure of De Cantoc for Rome, in 1293. This office, however, he resigned in a few months, and returned to his cathedral duties. The death, in 1313, of John Lech (remarkable amongst the Archbishops of Dublin, as having been the first who obtained Papal Bulls for the founding of a university in that city), brought De Thornbury forward as a candidate for the vacant mitre. He was supported by the Dean and Chapter of St. Patrick's: the Priory of the Holy Trinity put forward Alexander de Bicknor, Prebendary of Maynooth, and Lord Treasurer of Ireland. De Thornbury resolved on bringing his claims under the notice of the Holy See, and with this view took shipping for France, but was lost in a storm that arose on the night of his departure; "whereupon, as if heaven had promulgated its judgment, De Bicknor's election was no longer opposed."

15. **A. D. 1294.**—ADAM DE WOODINGTON.

16. **A. D. 1307.**—RICHARD DE BERESFORD.

17. **A. D. 1317.**—WILLIAM FITZ-JOHN, Archbishop of Cashel, who had previously been Canon of the Cathedral of Kilkenny, was consecrated, in 1303, Bishop of Ossory. In 1317, a vacancy having occurred in the See of Cashel, the Dean and the greater part of the canons elected as *digressimus* one John McConnell, Bishop of Cork, while the remaining portion of the canons presented Thomas O'Lonchy, as best suited for this high office. The Pope, however, set both candidates aside, and appointed, on the 1st of April, 1317, William Fitz-John to the Archbishopric. Edward II., on the 10th of July following, elevated him to the Chancellorship of Ireland. On the 6th March, 1318, he was constituted Deputy Governor-General of the country, at a salary of £500 a-year, during the temporary absence of the Lord Justice, which office he filled until the 8th of October following. The most reverend Chancellor resigned the seals in 1321, and died on the 15th September, 1326.

18. **A. D. 1321.**—ROGER OUTLAWE, Prior of Kilmainham. The Priory of Kilmainham, one of the grandest monasteries in Europe, was situated where the Royal Hospital now stands. Founded by Strongbow for the Knights Templars, the hospital passed, on the suppression of that illustrious order by the Pope, in 1307, to the Knights of St. John of Jerusalem. Its Prior was a Lord of Parliament, who not unfrequently, during the absence of the Lord Deputy, was one of the Chief Gover-

nors of the country, with the title of Lord Justice. Of the once powerful family of the Outlawes none are now left. Roger Outlawe became Prior in the early part of the fourteenth century, and his elevation in the Church was followed by his elevation in the State. In 1318 he became Lord Treasurer, and in 1321 Lord High Chancellor of Ireland. During his Chancellorship one of the most remarkable trials recorded in the long history of superstition took place; the trial was that of the Dame Alice Kettler, for witchcraft. She was not indeed tried before the Chancellor, but the applications to him were so numerous in the matter, that it deserves to be noticed in this place. The criminal law was then administered by the Chief Justice, but there was a class of cases against God and religion, in which the temporal and spiritual Courts had concurrent jurisdiction. The imaginary crime of witchcraft was of this class:—Now in the year 1324 informations were sworn before the Chief Justice against divers persons accused of the offence, and were by him remitted to Richard de L'Edred, Bishop of Ossory, for trial. Great was the excitement caused by this prosecution, "for this bizness about the witches troubled all the estate of Irelande, the more so as the accused were connected more or less with the quality." Dame Alice lived in the town of Kilkenny. She was four times married—first to Roger Outlawe, a banker, nephew of the Lord Chancellor. The principles of banking were not generally understood in those days; but Roger Outlawe, upon his death, bequeathed a fabulous fortune to his widow and child, William Outlawe. The lady, finding herself in easy circumstances, married secondly a Monsieur Le Blunt, and he dying after a few years, she married one Richard de Valle, on whose death she married last of all Sir John de La Poer. This Sir John, together with her younger children, were the prosecutors in this case; the defendants being the dame, her son, William Outlawe, and two women named Dyonesia Basil and Florinda Petroneuil.

The Bishop of Ossory had been a Franciscan friar in Normandy, and woe to the unhappy prisoner who should stand accused of the soul-destroying sins of either heresy or witchcraft in his court. His leanings being well known, an application was made to the Chief Justice (Monsieur L'Enfant), that as the crime was an indictable one at Common Law, the trial should take place in the temporal Court, but the Chief Justice remitted the case to the ecclesiastical Judge, inasmuch as witchcraft involved the crime of heresy. How deeply the Lord Chancellor felt for the position in which his relations were placed may be estimated by the fact, that he sent down at his own expense two able lawyers to defend them, their fees being

three shillings and eight pence a-day and four pence for their dinner each. On their arrival in the cathedral town of Kilkenny, the learned counsel, who had ridden hard from Dublin, proceeded through the main street to the Court, which was held in the chapter-house.

There were seven counts in the indictment: the first was that the prisoners were guilty of sorcery, witchcraft, and heresy, that they absented themselves from the services of the Holy Church, and that they received not the Eucharist nor took holy water.

The second was that they sacrificed to the devil out of hell.

The third—That by his assistance they knew what was coming to pass in after times.

The fourth—That meeting with each other on a wild morass, they cursed the faithful.

The fifth—That on a wild common, and in the darkness of the night, they made a hell-broth of horrible ingredients, whereby they excited amongst God's people unlawful loves, hatred, and revenge.

The sixth indictment, which contained the sting of the proceedings, was as follows:—"That many of the sons and daughters of the aforesaid Alice, by her former husbands, demanded vengeance upon her and upon her co-conspirators—that she so bewitched her aforesaid three husbands, and so deprived them of reason, that they bequeathed to her and to her son William Outlawe all their worldly wealth."

Seventhly—That her present husband, John de La Poer, by means of her enchantments, was reduced to such a state of emaciation that his nails all fell off. That in proof of all the aforesaid statements, the said John de La Poer, by means of keys which he had obtained from a female servant, opened an oaken closet, and found the Host with the devil's name, instead of the name of Christ, inscribed upon it, and that the said John de La Poer then took from out of the said chest those poisoned charms, and committed them to the care of two reverend priests, who took them to the Most Reverend Father in God, Richard of Ossory. That the aforesaid Dame Alice was in the constant habit of sleeping in one and the same bed with a certain devil out of hell, who might be sometimes seen in the shape of a black cat, and of other times in the shape of a mangy dog accompanied by two black slaves.

When the clerk of the Court had read those accusations (which to other generations appear puerile and childish), a moan of horror arose from the swaying multitude—*arrectæque horrore comæ, et vox faucibus hæsit*:

Evidence was then given of the vast wealth which the Outlawes had accumulated, and it was put beyond all contradiction that a sum of £3000 [equivalent to £60,000 of the present

currency] was found buried in her kitchen ; and counsel for the prosecution called on the Judge to presume that all this vast wealth must have been accumulated by the aid of the demon ; and evidence was produced and received, without a smile, that it was the custom of the Dame Alice to watch for the monthly appearance of the new moon, and then having said the Lord's prayer backwards, at once to sweep the filth of the streets to the house of her son, muttering all the time—

“ To the house of William my son
Hic all the wealth of Kilkenny town.”

Witnesses were also called to prove that the Sacred Host, with the devil's name imprinted upon it, was found in her chest, together with a box of ointment, wherewith she used to grease the broom-stick upon which she used of her custom to ride through the fog and filthy air.

The counsel for the prisoner denounced the accusations as groundless, and contended that Dame Alice and her son were industrious and clever people, who put together vast riches without a charge of dishonesty having been ever made against them. As for witchcraft and sorcery, it was a charge made by those who endeavoured to work their ruin and possess themselves of their wealth. When all the pleadings, proofs, and addresses of counsel had closed, the matter was referred to the consideration, not of a jury, but of a single Judge, and he thereupon framed his interlocutory sentence, which was afterwards referred to the Bishop, and by him confirmed.

On the appointed day the prisoners were brought up to hear their doom, and the Judge having dwelt on the enormity of the crime they were charged with, felt no doubt on his mind that the Dame Alice, Basil, and Petroneuil, were guilty. The doomster was then called on to read the sentence, which he gabbled over after the clerk, condemning them to the flames. Petroneuil was burnt at the Cross of Kilkenny on that night ; but whether the Dame Alice suffered at the stake it is impossible now to state. William Outlawe was discharged by the Lord Chancellor on the application of Arundel Le Poer, Seneschal of Kilkenny.

Foiled in his attempt to crush the thrifty and unfortunate William Outlawe, the Bishop turned to wreak his vengeance on the Seneschal, and he accordingly applied to the Lord Chancellor for a warrant to arrest him on the serious charge of heresy. The Chancellor, knowing the temper of the Bishop, retired to his convent at Kilmainham, and then having taken counsel with the Chief Justice, refused the application, on the very technical ground, it is true, that the accused was not excommunicated ;

and if he had been excommunicated, the writ sought for should be *de excommunicato capiendo* (for capturing an excommunicated person), which could not be granted until forty days had elapsed after the sentence of excommunication. Forthwith La Poer was excommunicated, and one would suppose that a man of worldly wisdom should at once have fled to another country; however, there he remained, and appeared Sunday after Sunday in the cathedral. The forty days went over, and La Poer was then arrested, and confined in goal, where he died of the hardships he had endured.

The conduct of the Bishop of Ossory now became intolerable, and his sanity was doubted, especially when questions of heresy or sorcery were raised. The Lord Chancellor, though Prior of Kilmainham, was his inferior in the Church, and the odium—perhaps the peril—of crossing the Bishop's path devolved on the Chief Justice; and in this opposition he had the entire concurrence of Alexander de Bicknor, Archbishop of Dublin, who was resolved to check the mad career of his brother of Ossory. An opportunity soon presented itself, and it happened in this wise. Several persons were accused before L'Edred of sorcery and heresy; they were excommunicated, and he applied to the Lord Chancellor Outlawe for a writ to capture the excommunicated persons wherever they might be found within the diocese of Ossory. The writ was at once granted, and Outlawe immediately resigned the seals, and was succeeded by Alexander de Bicknor, Archbishop of Dublin, as Lord Chancellor, but the accused parties had meanwhile taken shelter in the archdiocese of Dublin; while the writ was not large enough to capture them in any other diocese than that of Ossory. The Chancellor Archbishop not only refused to back the warrant, but took the accused under his protection. L'Edred appealed to Rome, and the appeal appears to have been unsuccessful; for he was prevented from returning to his diocese, and the profits and jurisdiction of his see were seized by the Archbishop. That a trap had been set for L'Edred by Lord Chancellor Outlawe and De Bicknor is a self-evident proposition, and that the accused were aware of the trap can hardly be doubted. The Bishop of Ossory being silenced, De Bicknor, who was then (1326) not in high favour with the Crown, resigned the seals which Outlawe resumed. One of his first acts was to appoint a standing counsel for the Priory of Kilmainham, his counsel being a lawyer of great reputation, a Monsieur Nicholas de Ross, whose annual fee, payable at All-Hallow-eeen, was twenty shillings of solid silver.

In the year 1327 the Chancellor was sworn in as Lord Justice, to act as Chief Governor in the absence of the Lord Deputy. A violent feud broke out about this time between Thomas Fitz-

Gerald, afterwards Earl of Desmond, and Lord Arundel de La Poer. The former was aided by the great families of the Butlers and Birminghams, and the latter by the De Burghos. On the cause of this faction fight it is needless to speculate: blood flowed on both sides. But in the year 1329, Outlawe effected a reconciliation between them; and although it was the season of Lent, a great banquet was given in St. Patrick's Cathedral to celebrate the event. To many it might appear that a feast given in so holy a place as a Cathedral Church was a sacrilegious desecration, but it was surely not sacrilegious to establish peace, and a feast even in the sanctuary was no desecration, when those who had before been enemies sat reconciled at the same board. The tradition is, that FitzGerald and De La Poer shook hands, the one standing in the sacristy and the other in the church, with the door wisely closed between them, in which a hole had previously been cut for their hands to pass through, so that no deadly weapons could be used by either. In 1330 the Prior was appointed Lord Deputy, and resigned the Chancery, when a lawyer named Adam de Limberg, of whom nothing further is known, succeeded him. In this year the area of the Lord Chancellor's jurisdiction was narrowed, on account of the Earls of Ormond and Desmond being appointed Lords Palatine of the counties of Tipperary and Kerry respectively, both counties being created counties Palatine. In each the appointment of the Judges, Sheriffs, and Coroners, was vested in the Earl, and both those territories were consequently withdrawn from the jurisdiction of the Court of Chancery.

In 1331, Anthony de Lucy, a soldier of eminence, was sent over as Lord Deputy, to curb the arrogance and violence of the Anglo-Norman nobility, and the Prior of Kilmainham, in consequence, resigned the sword of state, and was remitted to his former place as Chancellor, of which he remained in undisturbed possession until 1334. In this year the Lord Deputy having caused one of the Birminghams to be hanged in the Tower of Dublin, ever since called Birmingham's Tower, the severity of the punishment led to his recall, and Chancellor Outlawe was once more appointed Lord Justice. Appalling atrocities were about this time perpetrated with impunity by the Irish chieftains, one of whom, M'Dermot, prince of Moylurg, took the habit of a monk in the Abbey of Boyle, in whose silent cloisters "he did penance for his crimes." The subsequent career of the Chancellor appears to have been a constant oscillation between the places of Lord Deputy and Lord Chancellor, and yet he was not forgetful of his duty as churchman, for we find him granting to "priest Joyce the church of St. Michael, Wexford," with all the profits thereof for life, at the annual rent of four

marks (£2 13s 4d) of silver money, he taking proper care that the church should be well attended. In 1335 he was Lord Deputy to the Lord Lieutenant, Sir John Darcy, in which year he granted an annual pension of 13s. 4d. to a lawyer named Adam de Kingston to act as counsel for the Priory of Kilmainham whenever he should be required so to do. He also made a grant to the ranger of the Kilmainham park, which extended from the Priory (now the Royal Hospital) almost to where the Vice-regal Lodge now stands: it was then known as the "Park of the Spring of the pure Water"—in Irish, *Parc na fionn uisge*, a name which has since been corrupted into the "Phoenix Park." The allowance for the park-keeper was a "big loaf of white bread, a dish of meat from the kitchen, and two flaggons of ale—one of the best, and the other of the second kind—daily, with a half a mark annually."

In 1337, for some reason now unknown, Outlawe made such a grant for his life to Master Walter de Islep as demonstrates that the Knights of St. John of Jerusalem lived in comparative splendour at Kilmainham. De Islep was "to have place for himself, for his chamberlain, chaplain, two upper servants, one lower servant, five stable boys, and five horses," and "to sit at the Prior's table, and at his right hand, so that he might be more commodiously served as well in eating as in drinking." The chaplain was not to sit at the Prior's table, but with the brethren of the house, and his upper servants to rank with the upper servants of the reverend the Prior. In the same year he was again Chancellor, the Bishop of Hereford having resigned the seals, which he had held for one year. In 1338 he was again Lord Deputy, resigned the seals, and was replaced in the Court of Chancery by Robert de Henningburg, Master of the Rolls. In 1340, being then at once Chancellor and Lord Justice, he proceeded to one of the monasteries of his order at Aney, in the county of Limerick, and there died full of years and honours. His contemporary, Friar Clyn, says that "Outlawe was a prudent and upright man, and well learned in the laws."

19. A. D. 1325.—ALEXANDER DE BICKNOR, Archbishop of Dublin. This Chancellor had previously, from 1307 to 1309, filled the office of Lord Treasurer. A vacancy having occurred in the See of Dublin, two names were put forward: the Cathedral (St. Patrick's) supporting Walter de Thornbury, and the Church of the Holy Trinity, now Christ Church, declaring for De Bicknor, who was descended from an English family of great antiquity. Walter's election having been confirmed by the Holy See, he took shipping for France, where the Pope, who then resided at Avignon, held his Court. The night of his departure a great storm arose, and the vessel, with all hands on

board, was lost. No obstacle then presenting itself, De Bicknor was consecrated Archbishop of Dublin. In the same year, on the return to his diocese, Pope John XXII. instructed him to excommunicate Edward Bruce and his several followers, if he did not render satisfaction for the ravages and burnings of churches committed by him throughout the kingdom. In 1318 De Bicknor was appointed Lord Justice, and was summoned on the 10th of November, in the same year, to attend a parliament at Lincoln, the Archbishop of Dublin having, in right of certain two manors in England, conferred by King John upon them, the privilege of sitting in the English parliaments. A university was founded in Dublin in 1320 by the Archbishop, which soon, however, dwindled away. About this time, negotiations of a delicate nature were entrusted to De Bicknor, in relation to a proposed marriage between the king's eldest son, afterwards Edward III., and the daughter of the King of Arragon. The Archbishop was not, however, destined to enjoy the uninterrupted sunshine of royal favour. The Castle of La Royale, in Aquitaine, was in 1324 besieged by the French army; this fortress, which it was considered might have held out, surrendered by his advice. The king complained bitterly to the Pope of the prelate's conduct, and besought His Holiness to remove him from the Archbishopric of Dublin, and to appoint another in his place. De Bicknor, in the next year, was restored to the king's favour, and was appointed Lord Chancellor. Complaints were made that while he was Lord Treasurer he had squandered the public moneys. A writ of sequestration was issued, and the revenues of the see were seized, in satisfaction of the arrears alleged to be due to the Crown. The Pope refused to believe the accusations. The Archbishop then retired from the Chancery, in which he had presided for eleven months, and was never afterwards restored. He died on the 14th of July, 1349, and was buried in St. Patrick's Cathedral.

20. **A. D. 1330.**—ADAM DE LIMBERG.

21. **A. D. 1335.**—WILLIAM, Prior of St. John's, near Dublin.

22. **A. D. 1337.**—THOMAS CHARLETON, Bishop of Hereford, Canon of York, Archdeacon of Wells, and King's Treasurer, was appointed Bishop of Hereford in 1327, and raised to the Chancellorship in 1337, and to be Lord Deputy in 1338, when he resigned the seals on Prior Outlawe's being recalled. These he resumed in 1339, and continued to hold them, together with the office of Chief Governor, until ill health compelled him to resign, and returning to his diocese, he died in 1343.

23. **A. D. 1338.**—ROBERT DE HENNINGBERG, Master of the Rolls.

24. A. D. 1340.—ROBERT DE ASKEBY.

25. A. D. 1341.—JOHN L'ARCHER, Prior of Kilmainham. The first notice of this churchman is found in the Clarendon Manuscripts in reference to a suit which he had with Archbishop De Bicknor, for the church of Dunboyne; the one insisting that the advowson was appurtenant to the Priory of Kilmainham, and the other that it belonged as of right to the See of Dublin. The two litigants appealed to arms, or as it is called in the language of the law, waged their battle, and being churchmen, appointed their champions, but the suit was compromised, and thus the unseemly spectacle allowed by the jurists of that age was avoided. In 1341 L'Archer was appointed Chancellor. Having escaped the unpleasant mode of trial above described, he was soon after involved in a matter of great national importance. Edward III. had long since desired the breaking down of the ascendancy of the great Anglo-Irish lords. His first step in doing so was the resumption of all lands, liberties, seignories, and jurisdictions, which either he or his father had granted to those lords in Ireland. To allay the excitement produced by this and other measures, the Lord Deputy, Sir John Morris, summoned a parliament to meet in Dublin in October, 1342, which the Earl of Desmond and many other lords refused to attend, and in opposition thereto held a general assembly or convention of their own at Kilkenny, in November, where, after setting forth their titles, they protested against the injustice of the measure, and deplored the speculation, fraud, and mismanagement of the English officials. Amongst other things, they complained of the reconquering by the Irish of one-third of what the king's ancestors had conquered, as well as of the abandonment to the Irish of the castles of Roscommon, Athlone, Randtown, and Bunratty. A memorial was accordingly drawn up by the Kilkenny assembly, and forwarded, by the hands of the Chancellor, to Edward III. It appears unaccountable that the seals could have been left one moment longer in the custody of one who should thus become the mouthpiece of this anti-parliament, yet no steps to remove him from the Bench were taken. The remonstrance having been laid before the king, he was pleased to comply with the requirements thereof, so far as confirming the Anglo-Irish nobles in the grants made to them by his predecessors.

In 1346 the Lord Deputy, Sir Ralph, who, as many of his predecessors had done, resided at the Priory of Kilmainham; whilst there he died on Easter Sunday. L'Archer was appointed to succeed him, and resigned, in consequence, his Priory of Kilmainham and the Chancellorship. In the next year, however, having relinquished the sword of state, he took possession once more of both the offices of which he had so lately di-

vested himself. But he too was cut down by that plague which in this year threatened, according to Friar Clynn, "to sweep away the whole race of Adam." L'Archer being dead, the Preceptor of the Priory appeared in Court on the next morning before the Judges, and delivered up the Great Seal.

26. **A. D. 1346.**—**JOHN MORRIS.** The family of Morris, then ancient, was distinguished in Ireland from the reign of Henry II. From Sir Harvey de Monte Maurescisco, who accompanied Strongbow to that country, was descended Sir John Morris, Viceroy of Ireland, and his son John Morris became Lord Chancellor in 1346. He was ancestor of the family of that name which afterwards settled in the town of Galway, and was of the fourteen tribes of that tribal city. The lineal descendant of Lord Chancellor Morris is now Chief Justice of the Court of Common Pleas.

27. **A. D. 1350.**—**JOHN DE ST. PAUL,** Archbishop of Dublin, who had been Prebendary of Morpington, York, and Canon of Dublin, was promoted to the Archbishopric by Pope Clement VI. He was soon engaged in a contest with the Archbishop of Armagh as to his right to raise the Primatial cross within the See of Dublin. The king, having vainly endeavoured to put an end to this oft-recurring scandal, brought the matter under the notice of the Holy See, and Pope Innocent VI. at length decided that each of those prelates should be Primate, but, for distinction of style, that the Archbishop of Armagh should be entitled "Primate of all Ireland," while the Metropolitan of Dublin should be "Primate of Ireland." In 1350, De St. Paul was appointed Lord Chancellor, and in 1352 he presided at a provincial council in the Church of the Holy Trinity (Christ Church), when several canons were enacted, which are given at length in Wilkins' *Concilia*, vol. iii., p. 18. In 1358 the Most Reverend Chancellor was appointed Privy Councillor, whereupon the king wrote the Lord Deputy, recommending him in all cases of difficulty to follow the suggestions of this able prelate. The lords of the Marches of the Pale—so De St. Paul insisted—should be made to live in their castles and on their lands, and should be compelled to improve and defend them. In the council he invariably strove to reconcile opposing interests, and strenuously advised that a general amnesty should be granted to those who had fallen under the displeasure of the Court. In 1360 he was one of the commoners appointed "to explore for mines of gold and silver," which were considered to be abundant in various parts of Ireland. The anxious care of the Chancellor through his long career of usefulness was likewise directed to works of piety and of art, not the least of which was the building, at his own expense, of the choir, east from

the chancel arch, of the Church of the Holy Trinity (Christ Church), Dublin, then an Augustinian monastery, whose prior was, *ex officio*, Lord of Parliament. In 1356 the Chancellor resigned the seals, and thenceforward he appears to have busied himself entirely about things spiritual. He died on the 6th of November, 1362, and was buried in front of the steps of the high altar of Christ Church.

28. A. D. 1356.—RICHARD DE ASKEATON.

29. A. D. 1357.—JOHN DE FROWICK, Prior of Kilmainham, was appointed Chancellor, and in the same year he resigned his Priory and the seals. The succeeding prior (Burleigh) succeeded him also as Chancellor. This last remained in office until 1359, when De Frowick returned to power, and the Hospital obtained a confirmation of their privileges.

30. A. D. 1357.—THOMAS DE BURGLEIGH, Prior of Kilmainham, was appointed Chancellor at the salary of £40 a-year. Small as this sum was, he found it almost an impossibility to obtain payment of it, and arrears having accumulated, permission was granted to pay himself by retaining the rents of the Manors of Chapel Izod and the Salmon Leap, which he, as Prior of Kilmainham, held in fee-farm from the Crown. He was soon after called on to resign the seals until he should "account for and clear himself of divers crimes and misdemeanors then laid to his charge," and was accordingly brought to trial, in Droghëda, before the Viceroy, Lionel Duke of Clarence, and the Chief Justice, for accepting in a certain suit in his Court bribes from both the plaintiff and the defendant, and for plundering the country about Kells. The jury however acquitted the accused, who was then restored to his place in Chancery. In 1368, being Prior and Chancellor, he was sent by the Lord Deputy, together with other commissioners, to treat with the Birminghams, who were in open rebellion. No sooner had the King's commissioners presented themselves than they were seized and thrown into prison; and while the other commissioners were ransomed, the Birminghams refused to liberate the Chancellor on any terms whatsoever until their kinsman, James Birmingham, who was kept a prisoner in the castle of Trim, should be released. Having obtained their terms, Burleigh was discharged from custody, and returned to Dublin, and once more resumed his place as Chancellor: the hardships, however, which he had undergone shortened his life, and he died in 1371 at his Hospital of Kilmainham.

31. A. D. 1363.—ROBERT DE ASKEATON, Prior of Newtown, Trim, was Chancellor during one of the retirements of Thomas de Burleigh.

32. A. D. 1368.—THOMAS LE REVI, Bishop of Waterford, was Chancellor during the captivity of De Burleigh. Imme-

diately on his appointment he issued writs for the convocation of a parliament at Kilkenny—a parliament which afterwards passed the execrable statute known as The Statute of Kilkenny, the 40th of Edward III. ; which, though recited and amended by other Acts, is yet not on the roll of the statutes. “For it was lent out by the Master of the Rolls in 1630, and lost.” A copy, however, in Norman-French, still exists in the Lambeth Library. The Parliament which passed that Act was presided over by this Most Reverend Chancellor, and the scope and intention of the Act are best explained by the preamble, which, slightly curtailed, is as follows:—

“Whereas at the conquest of the land of Ireland, and for a long time after, the English of the said land used the English language, mode of riding and apparel, and were governed and ruled, both they and their subjects, according to the English law, in which time God and holy Church, and their franchises according to their condition were maintained, and themselves lived in due subjection; but now many English of the said land, forsaking the English language, manners, mode of riding, laws and usages, live and govern themselves according to the manners, fashion, and language of the Irish enemies; and also have made divers marriages and alliances between themselves and the Irish enemies aforesaid; whereby the said land, and the liege people thereof, the English language, the allegiance due to our lord the King, and the English laws there, are decayed, and the Irish enemies exalted and raised up, contrary to reason; our lord the King, considering the mischiefs aforesaid, in consequence of the grievous complaints of the Commons of his said land, called his Parliament at Kilkenny, the Thursday next after the day of Cinders [Ash Wednesday], in the fortieth year of his reign, before his well-beloved son, Lionel Duke of Clarence, his Lieutenant in the parts of Ireland, to the honour of God and of His glorious Mother, and of holy Church, and for the good government of the said land, and quiet of the people, and for the better observation of the laws, and punishment of evil doers there, are ordained and established by our said lord the King, and his said Lieutenant, and our lord the King’s counsel there, with the assent of the Archbishops, Bishops, Abbots, and Priors (as to what appertains to them to assent to), the Earls, Barons, and others of the Commons of the said land, at the said Parliament there being and assembled, the ordinances and articles under written, to be held and kept upon the pains contained therein.”

Intermarriage between the English and Irish races was then declared treasonable. The use of the Brehon Law was condemned. English subjects speaking the Irish language, and English mothers sending out their children to be nursed by

Irish nurses, were denounced, and such acts of theirs were declared to be treasonable acts. "And if any one shall do any of the acts prohibited he shall be attainted, and shall suffer death." By this statute, which is of great length, the Irish people were excluded from every kind of benefit at the hand of the law, and the breach between the English and Irish races was widened, and their animosities were intensified. Le Revi held the seals during a considerable portion of 1368 and '69. On his retirement, De Burleigh, Prior of Kilmainham, was restored to the Court of Chancery, and remained in office until his death in 1371.

33. **A. D. 1371.**—**JOHN DE ROTHERY.**—This Chancellor was allowed, in addition to his salary of £40 a-year, "six men-at-arms, and six archers on horseback for the custody of the Great Seal." In the early part of 1372 he retired from office. In the month of March of the latter year he was despatched by the Privy Council to England for the purpose of informing the king of the true state of this country; and for his expenses in going "to the king's Palace from Dublin, and for his lodging as well as for his entertainment and for his return homewards," he had an allowance of £8 sterling.

34. **A. D. 1372.**—**WILLIAM TANY**, Prior of Kilmainham, was in this year Lord Chancellor and Lord Deputy; the former office he held until 1377, but the latter only for a few months. In the close Rolls there occur frequent orders for his salary of £40 a-year. Immediately on the death of Edward III. in 1377 he retired from office, and was again Chancellor in 1379, resigned in a few months, and in 1381 resumed office and retired after a few weeks, and was once more recalled shortly previous to his death in 1383.

35. **A. D. 1377.**—**ROBERT DE WICKFORD**, Archbishop of Dublin, Fellow of Merton College, Oxford, and Archdeacon of Winchester, had been in 1373 appointed by Edward III. Constable of the Castle of Bordeaux, one of the most impregnable of the English fortresses in France. On his return from that office occurred the once celebrated case of *Beanstone v. De Wickford*. One John Beanstone obtained a judgment in the King's Court at Bordeaux against the defendant for £400; but after judgment it appeared that De Wickford had never been served with the process of the Court, and had known nothing about the proceedings; as a matter of course he appealed to the Appellate Court, which was then the Court of the Privy Council in England, and he there reversed the judgment of the Court below. In 1375 he was appointed by His Holiness Gregory IX. Archbishop of Dublin. Immediately on his arri-

val in Ireland, a case occurred which demonstrates that a plain tiff in the Courts in Westminster might in the fourteenth century, when the cause of action arose in England, mark judgment against a defendant residing in Ireland, even though no process had issued from the Irish Courts. The matter in dispute was merely a sum of £10, for which De Wickford was sued in England, and judgment was there recovered against him. The writ of *fi. fa.*, as such writs were then, as now, called, was directed to the sheriff of one of the English counties to take the goods of the defendant for satisfaction of that sum. The sheriff inquired and found that he had no goods, and the return he made to the Court was to that effect. A writ was then directed at Westminster to the sheriff of the city of Dublin, and was acted upon without any judgment whatever being had in Ireland. In 1377 the Archbishop was appointed Lord Chancellor of Ireland, and was proceeding to hold with the Judge Itinerant the assizes within the Pale, when he was summoned to England; whither, having delivered up the seals, he proceeded. The reason for this summons, it may be presumed, was to assist the Crown in passing the absentee tax for this country—a tax which was imposed by the English Parliament (1 Richard II.), and which, amounting to two-thirds of their revenues, was imposed on all persons having lands in Ireland, and not residing upon them.

In 1382 De Wickford was ordered to attend a conference of the prelates and nobles to be held at Naas, and was then directed not to absent himself from Ireland without licence. In 1385 he was again appointed Chancellor, and held the seals during three months, when he was succeeded for a short time by Richard White, Prior of Kilmainham. In 1387 he obtained a patent for holding a fair at Swords, and a grant to the See of Dublin of a portion of the abbacy of Glendalough. In 1390 he had leave of absence for one year to visit England, during which interval (on the 29th of August, 1390) he died.

36. A. D. 1377.—ALEXANDER BALSCOTT, Bishop of Ossory. Though of English descent and education, the first preferment he obtained in the Church was a canonry in the Cathedral of Kilkenny. His profound learning and abilities soon brought him under the notice of Gregory IX., who appointed him Bishop of Ossory. In 1372, by the favour of Edward III., he became Lord Treasurer, an office he continued to fill with trifling interruptions for the ten years following. * In 1377 he was made Lord Chancellor; he soon after retired, was reappointed in 1381, and was several times Lord Justice and Lord Deputy. While performing the twofold duties of Chief Governor and Chancellor, he was created Bishop of Meath by the Pope in 1386. It was at

this time that the king allowed a young man, Robert de Vere, to acquire an entire ascendancy over him. Created Marquis of Dublin and Duke of Ireland, De Vere had transferred to him by patent, which was confirmed to him by parliament, the entire sovereignty of the kingdom of Ireland for life. The royal standard was lowered and his own hoisted; and writs were issued in his name and sealed with his seal. The influence, however, of the favourite was of short duration; he was soon degraded from power, and driven into exile. It is remarkable that no less than two Chancellors fell into disgrace in consequence of the short sunshine of power which he enjoyed. De la Pole, Earl of Suffolk, Lord Chancellor of England, was deprived entirely of office, and Balscott, Lord Chancellor of Ireland, nearly shared the same fate, because he had presumed, after De Vere's disgrace, to march against the Irish enemy under De Vere's and not under the royal standard. In reply to an angry letter from the king, Balscott, having excused himself as best he could, was restored to the royal favour, and continued, with a few short interruptions, to hold office until 1391, when he retired to his diocese; and thenceforward, until the accession of Henry IV., he bestowed his undivided attention on things spiritual, not taking part in public affairs even during the invasions of the country by Richard II. In the 1st year of Henry IV., 4th of January, 1399, Balscott once more presided in the Court of Chancery, at the same time acting as Lord Deputy. Dying on the 10th of November, 1400, his remains were conveyed with almost kingly state to St. Mary's Abbey, Trim, where they were interred amidst the universal regret of the people. Deeply versed in the civil and canon law, he gave entire satisfaction in the many offices he had filled, while as a Christian prelate his worth and his zeal were unsurpassed.

37. **A. D. 1379.**—**JOHN COLTON**, Archbishop of Armagh, was a native of the county of Norfolk in England, and was so much devoted to the maintenance of the English interest in Ireland, that he raised at his own expense a regiment of armed men to relieve the town of Athy, then besieged by the Irish enemy. He had long been Dean of St. Patrick's, and in reward for his services, Richard II. appointed him Lord Chancellor of Ireland, an appointment thus noticed in the annals of St. Patrick's Cathedral:—"In 1379 Dean Colton was made Lord Chancellor of Ireland, and continued in the office until the 26th of November, 1381, when William Tany, Prior of Kilmainham, was appointed his successor." On the 13th of January following he set out on a tour of inspection, in company with the Lord Deputy, Edmund Mortimer Earl of March. Having arrived at Cork, the Lord Deputy was taken suddenly ill at the convent of St. Do-

minic, where he expired on the 26th of the December following. Colton, who was then appointed Lord Justice, was in 1382 consecrated Archbishop of Armagh, and was soon after employed to conduct negotiations with the Papal court. In the later years of his life he applied himself with zeal to bring about a happy termination to the great schism which was then rending the Catholic Church; and with this view he wrote a work, which is still preserved in the library of Merton College, Oxford, entitled, "*De Causa Schismatis, et de Remediis ejus.*"

38. A. D. 1387.—RICHARD WHITE, Prior of Kilmainham.

39. A. D. 1391.—SIR ROBERT PRESTON.

40. A. D. 1391.—ROBERT WALBY, Archbishop of York, who had been an Augustinian friar, was a great orator and an accomplished theologian. His position was so high at the court of Edward III., that he was appointed to accompany the Prince of Wales on a tour through the English dominions in France.

He was reckoned in the first rank amongst the learned, both for his eloquence and skill in languages. He next became Professor of Divinity at Thoulouse, and such an excellent preacher, that he was advanced to the highest promotions. These qualifications gained him the esteem of Edward the Black Prince, who obtained for him the bishopric of Ayr. On the accession of Richard II. he was commissioned by that prince to treat with John, Duke of Lancaster, who had set up a title to the kingdom of Castille and Leon; he was also appointed on three other commissions: one concerning a peace with Peter, King of Arragon; another to negotiate a league with Charles, King of Navarre; and a third to effect the reduction of John, Earl of Armagnac, the king's vassal, to obedience. Having been elevated to the Archbishopric of Dublin, he was soon after his enthronization appointed Chancellor, which office he resigned in 1393, when Northalis, Bishop of Ossory, succeeded him, and he was re-appointed in the year following, when Richard II. landed at Waterford with an army of 35,000 men. The king, having reduced to temporary submission the Irish chieftains, summoned a council at Kilkenny, which was attended by the most reverend Chancellor, when he obtained a confirmation of the privileges, pleas, courts, fairs, franchises, customs, and appurtenances, to the See of Dublin belonging. The king then departed for England, and Walby continued to hold the seals until 1397, and was successively appointed Bishop of Chichester and Archbishop of York. Dying in 1398, his remains were brought, surrounded with great pomp, to St. Edmund's Chapel, Westminster Abbey, where a brass figure, in episcopal robes, under a canopy of the same metal, is inlaid on a flat stone that marks his grave. He was author of several works against the follow-

ers of Wycliffe, a new sect which had then attracted great numbers of adherents in England : he also wrote a volume of sermons for every day throughout the year.

41. **A. D. 1393.**—**RICHARD NORTHALIS**, Bishop of Ossory, entered the church as a Carmelite friar, in his native city of London. Possessed of great learning and ability, he was appointed Bishop of Ossory in 1386, and, immediately after, was commissioned by Richard II. to inquire into the corruptions alleged to have taken place in the administration of the Government in Ireland. In 1391 he was employed as ambassador to Pope Boniface IX. ; on his return, in 1393, was made Lord Chancellor of Ireland; in 1394 was intrusted with a secret mission to the Pope in relation to the state of Ireland; and in 1397 was created Archbishop of Dublin, when the king made a grant to him and his successors of the privileges of the admiralty of Dalkey, a town then and for centuries after of considerable importance. Northalis died in 1397, and was interred in St. Patrick's Cathedral.

42. **A. D. 1397.**—**ROBERT DE BAYBROKE**, Bishop of London, a member of a noble family in the county of Northampton, became Lord Chancellor of England in 1381. While in office he opened two parliaments, and on both occasions denounced the doctrines of Wycliffe. His appointment to the high office of Lord Chancellor of England was distasteful to Robert de Vere, then in the height of his power. His desire was entirely to get rid of what he supposed to be the tyranny of ecclesiastical Chancellors, and to have laymen for the future appointed to that office. In 1383 De Baybroke was degraded, and the seals were given to another ; but on the banishment of De Vere, however, he was restored to the royal favour, and in 1397 was made Lord Chancellor of Ireland, when a distinguished lawyer named Robert Sutton, Master of the Rolls, was given to him as a deputy. De Baybroke received the Irish seals in 1398, and soon after died, and was buried at the grand entrance of Old St. Paul's Cathedral, London.

43. **A. D. 1398.**—**THOMAS CRANLEY**, Archbishop of Dublin, Chancellor of the University of Oxford, arrived in Dublin for the first time in 1397, with the Duke of Surrey, Lord Lieutenant of Ireland. While the Archbishop held the seals, Richard II. landed the second time at Waterford. This expedition was more unfortunate than the former, and was decimated by famine and harassed by the guerilla warfare of the Irish enemies. The king, with his shattered army, marched towards Dublin, and men and horses perished from hunger on their way through that hostile country. Famine with its horrors set in, and a biscuit in the day between five men is said to have been

thought a good allowance for a soldier. Arrived in Dublin at last, disastrous accounts of the rebellion awaited him from home. After an inglorious campaign he returned to England, leaving the Lord Deputy and Lord Chancellor in charge of the Government. Richard II. was then dethroned, and Henry IV., who usurped the vacant throne, continued the Archbishop in office as Chancellor. His future career, up to his death in 1417, appears to have been one of receiving and resigning the seals, Lawrence Merbury, a then well known lawyer, being appointed as his deputy.

44. A.D. 1410.—PATRICK BARRETT, Bishop of Ferns, became Lord Chancellor in 1410. The English influence and interest declining rapidly in Ireland, the Lord Chancellor was ordered to retire to his diocese, partly that he might the better protect it, and partly to restore confidence; and Robert Sutton, Master of the Rolls, was appointed Deputy-Chancellor in his absence. Resigning the seals in 1413, the remaining years of his life were devoted to writing the history of his predecessors in the See of Ferns—a work of considerable merit, which he concluded in 1415, in which year he died.

45. A.D. 1430.—SIR LAURENCE MERBURY, who had previously distinguished himself in the service of the Crown by several successful engagements with the Irish enemy. In return for his services, Henry IV., in 1402, appointed him Lord Treasurer—an office he uninterruptedly held for seven years: he was Deputy-Chancellor to Archbishop Cranley from 1407 to 1409, and in 1413 was appointed Lord Chancellor, the mandate therefrom the Crown having been read in the presence of the great dignitaries of State in the Council Chamber of Christ Church. In 1414, he accompanied the Viceroy, Lord Furnival (afterwards Earl of Shrewsbury), on a martial tour through the Pale, the Justices of the Court of Common Pleas having been commissioned to hear cases in Chancery during his absence. Victory followed the English arms for a time; and the successes thus gained won the approbation of the Anglo-Norman inhabitants of the narrowed boundaries of the Pale. But the enthusiasm thus kindled was of short duration, owing to the imposition of "divers damnable taxes," as those imposts were afterwards styled in the Statute 10th of Henry VII., called "coyn, livery, and pay—that is, horse meat and man's meat for the finding of their horsemen and footmen, and over that 4*d.* and 6*d.* daily to every one of them, to be had and paid of the poor earth tillers and tenants, without anything doing or paying therefor."

Merbury resigned in 1416, and was restored to office in 1420. The next year he obtained leave of absence from "the feast of

St. Peter ad Vincula" ensuing, when the priest Hugh Danent was appointed Deputy-Chancellor in his stead. Returning in 1421, Merbery resigned on the 21st of August, but was restored on the 14th of October, with an increased salary of six shillings and eight pence a-day. William Young, Archdeacon of Meath, acted as his deputy, an ecclesiastic who, in 1437, was excommunicated by the Primate for divers wise reasons, which are long since forgotten.

46. **A.D. 1416.**—WILLIAM FITZ THOMAS, Prior of Kilmainham, was appointed Chancellor this year, during the temporary absence of Merbery. The Prior's name appears in his own handwriting to the charter granted by Henry V. to the city of Dublin; which city, previous to that time, had been governed by a provost, whose powers were of a very limited nature. Thenceforward the corporation annually elected their own mayors, the first of whom was Cusack, ancestor to a Chancellor of that name who lived a century and a quarter later. It is stated in the *Liber Munerum Hiberniæ* that "the Lord Lieutenant on the 21st of August at Drogheda, in the presence of the council, received the Great Seal into his custody from Hugh Danent, treasurer, and caused the patent to be sealed therewith, after which he sealed up the said seal in a certain leather bag with his own seal, and delivered it to the said Hugh, to keep in the treasury until the Chancellor should be sworn in, who was sworn on the 25th at Athboy, and on the 28th had the seals delivered to him." This prior was several times Chancellor, and died in 1426.

47. **A.D. 1423.**—RICHARD SEDGRAVE held the seals from the 8th of April to the 8th of June, and then became Chief Baron of the Exchequer.

48. **A.D. 1423.**—WILLIAM TINBREACH, Lord Treasurer, was Chancellor for six weeks.

49. **A.D. 1423.**—RICHARD TALBOT, Archbishop of Dublin, brother of Lord Furnival, who had been Lord Deputy, entered early in life into the ecclesiastical state, was appointed Archbishop in 1417, and was acting as Lord Deputy when the Chancellor FitzThomas died. During the several years he held the high offices of state, Ireland, outside the Pale, was in a condition of anarchy and confusion—incessant broils, rapines, murders, and family warfare. In 1426 the Chancellor's presence being required in England, Sir Robert Fitz Eustace was appointed Chancellor during his absence. In 1428 a Parliament was held in Dublin, when a memorial was drawn up and signed by Archbishop Talbot, as Chancellor, and entrusted to the Chief Justice of the Queen's Bench (Fortescue), and to

Strange, who was afterwards Chancellor, to deliver to the king; in which, after complaining of the annoyances the king's subjects had to endure from their Irish enemies, and expressing their happiness at having so wise a viceroy, they set forth several grievances, amongst which was the exclusion of the Irish law students from the English Inns of Court, whither they were wont to resort to learn the English laws, as they had done in times past. In 1433 he again proceeded to England on some public business, when "Priest Chace, a Doctor of Sacred Theology," was appointed Chancellor in his stead.

In 1436 he was appointed deputy to the Lord Lieutenant, Sir Thomas Stanley, and in 1440 was Lord Justice, and held a Parliament in Dublin in the following year, at which it was enacted that, for the better making provision for war, every twenty pounds per annum worth of land should be charged with the furnishing and maintaining one archer on horseback. This method of providing soldiers, now introduced into Ireland for the first time, had been known in England since the Conquest as tenure by knight's service, the whole of that country having been then divided into about sixty thousand knights' fees, each knight's fee being equivalent to the maintenance of one mounted knight for forty days per annum; half a knight's fee being equivalent to the maintenance of a mounted knight for twenty days, and so on down to the fortieth part of a knight's fee, equivalent to one day's maintenance. Whilst this Parliament was sitting, it was rumoured that the Earl of Ormond was about being re-appointed Lord Lieutenant. A petition was thereupon despatched to the king, praying His Majesty that some mighty English lord, and no Irishman, should be intrusted with that important post, and further alleging that the Earl was entirely unfitted for the office. Henry VI., however, remembering the Lancastrian tendencies of the Earl, paid no regard to the prayer of the petition, and appointed him Viceroy. But the Earl was not long in office until he was charged with compromising the Crown debts, and misappropriating the public revenue. He was at once arrested and tried for high treason in the Marshal's Court, before the Duke of Bedford, Constable of England, and was acquitted. The annals state that Fitzgerald, Prior of Kilmainham, accused the Earl of Ormond of high treason, and that the Prior, in consequence, was challenged to a trial by combat, which was to have taken place at Smithfield; but that the quarrel, through the intervention of the king, was decided without fighting.

Having for thirty years filled the highest offices in Church and State, Richard Talbot died on the 14th of August, 1449, and was buried at the foot of the high altar in St. Patrick's Cathedral.

50. A. D. 1426.—SIR ROBERT FITZEUSTACE.

51. A. D. 1438.—THOMAS CHACE, Priest, and Doctor of Theology.

52. A. D. 1446.—RICHARD DE WOGAN, chaplain.

53. A. D. 1446.—SIR JOHN TALBOT, son and heir of the Earl of Shrewsbury.

54. A. D. 1448.—Thomas Fitzgerald, Mitred Abbot of the Abbey of St. Thomas à-Becket, Dublin. This, the fifty-fourth Chancellor, as also the fiftieth, fifty-first, fifty-second, and fifty-third, appear to have taken office during the temporary retirements of Chancellor Talbot, on whose death in 1449 this abbot succeeded him in the Court of Chancery.

55. A. D. 1451.—EDMUND OULDHALL, Bishop of Meath.

56. A. D. 1453.—SIR EDWARD FITZEUSTACE was appointed Chancellor by Richard Duke of York, who, though viceroy to Henry VI., was entitled to the throne of England, as descendant of Lionel, Duke of Clarence, second son of Edward III. The real object of sending the duke to this country was to remove him to a distance from the seat of government, as his presence was regarded by the reigning house as dangerous. His winning manners, kindly disposition, and title to the throne, won for him many friends in Ireland, and the native chieftains, whom he was sent to subdue, supplied him with as many beeves for the use of his kitchen as he chose to demand. In 1454, having appointed the Lord Chancellor his deputy, he returned to England. A parliament was then convoked under the presidency of FitzEustace, and an Act passed which made it thenceforward illegal for suitors to appeal, save in cases of high treason, to the Appellate Courts in England; and it was further enacted that in all appeals the appellant, if unsuccessful, should pay a fine of £20. The Chancellor, in 1455, resigned the sword of state, and thence until his death, in 1459, confined himself to the duties of his court.

57. A. D. 1459.—THE EARL OF RUTLAND, second son of Richard Duke of York, was appointed Chancellor at the early age of seventeen; having, however, for his deputy an aged and accomplished lawyer, John Dynham. To understand how this appointment was made, we have to retrace our steps to the year 1454, when the Viceroy left the government of the country in the charge of his deputy, the Lord Chancellor FitzEustace. The duke, on arriving in England, as the head of the House of York, took up arms against the Crown, and demanded a reformation of the government. A battle was fought at St. Albans, when Lord Clifford and many of the flower of the

Lancastrian nobility were slain. After a varied succession of victories and defeats, the duke was at length vanquished, when he returned to Ireland and resumed the viceroyalty in the king's name, an act which, however, was afterwards pronounced by the 10th of Henry VII., chap. 10, to be "when Richard Duke of York was in rebellion, and pretended himself to be Lieutenant to Henry VI." On his return to the government of this country, he appointed his son, the Earl of Rutland, Chancellor. The enthusiastic reception they both received in Dublin passes description, and that, too, at the very time when an Act of attainder had been passed against them by the English Parliament. The king had now conceded to Ireland the right of coinage, and it was declared by the Irish Parliament that as Normandy and Guienne, though under the rule of England, were separate from her laws, so also should Ireland be. The duke, accompanied by his son, who then ceased to be Chancellor, took his departure for England after the capture of Henry VI. at Northampton. Too confident of success, he marched at the head of five thousand men to meet the king's troops, which numbered over twenty thousand. Borne down by numbers, his army was swept from the field at Wakefield, and the Duke of York was numbered amongst the dead. A priest on the field of battle sought to shelter the Earl of Rutland. Lord Clifford, whose father had been slain at St. Albans, was attracted by the noble appearance of the youth, and asked who he was. The priest told him that he was the Earl of Rutland, and implored him to spare his life, and the young man, falling on his knees, craved mercy. "No," the chief replied; "by God's blood, thy father slew mine, and so shall I slay thee." Saying this, he stabbed him to the heart, and so perished, on the 31st December, 1460, in the flower of his youth, Edmund Earl of Rutland, the youngest Chancellor that had ever filled that office.

58. **A.D. 1460.**—JOHN DYNHAM was appointed Lord Chancellor by the Duke of York immediately previous to his leaving for England, and was continued by Edward IV. in 1461. A sum of £53 6s. 8d., issuing out of the fee-farm rent of Drogheda, was granted for the support of the clerks of the Court of Chancery. Sir Robert Preston was appointed his deputy.

59. **A.D. 1461.**—SIR WILLIAM WELLES, son of Lord Welles, was sworn in at Westminster before Edward IV., who granted him the butlerage and prisage of wines, which had been forfeited by the Earl of Ormond.

60. **A.D. 1462.** THE EARL OF WORCESTER.—John Tiptoft, otherwise Tibetot, was descended from Henry de Tibetot, who in the reign of Henry III. had a grant of extensive possessions

in the counties of York and Lincoln. His grandson, a warrior of no mean pretensions, was summoned by Edward II. to Parliament as a Baron, and from him was descended John Tiptoft, who was born in 1428, and who, on reaching twenty-one years of age, was created Earl of Worcester. In his nine-and-twentieth year he was Lord Deputy of the lordship of Ireland, and in the first year of Edward IV. was constituted a Justice for North Wales for life, and Constable of the Tower of London. His next great appointment was that of Lord High Chancellor of Ireland, and in the same year Thomas FitzGerald, Earl of Desmond, was sent over to this country as Lord Deputy. Now the Earl of Desmond was beloved by Edward IV.; for during the long and bloody contests for the throne, FitzGerald was ever on the side of the House of York. In nine battles fought against Henry VI. he acted the part of soldier and chieftain, and when Edward was in peaceful possession of the throne, he resolved to remunerate the Geraldine according to his deserts, and to invest him with all honours. He therefore created him Viceroy of Ireland; and before dismissing him to his government, called him to a private interview; and, when parting, asked him "did he see aught in his administration either injurious or disagreeable to his people?" The earl replied that he knew of nothing to the prejudice of His Majesty, save the low marriage he had contracted with Elizabeth, widow of Sir John Woodville; "and," continued the earl, "I think you would do well in divorcing her, and forming an alliance with some foreign princess." The king, who otherwise thought highly of Desmond's opinion, said that he rejoiced to believe that his marriage could not injure any one but himself; and so saying, they parted, and the Lord Deputy and Chancellor left London for Dublin. The former continued chief Governor of the country, during the seven succeeding years, while the latter resigned the seals in 1463, and returned to England. The Earl of Desmond, after the period we have named, retired to his own territory, and was succeeded in the viceroyalty by the late Chancellor, the Earl of Worcester. Meanwhile King Edward and his queen lived happily together; but as is too often the case, even in happy married life, some difference of opinion chanced to occur between them, and His Majesty, unfortunately losing temper, said that if he had followed the advice of his old and faithful servant, the Earl of Desmond, he would "have long since broken her proud spirit." The queen at the moment made no observation on this remark; the dispute terminated, and was quickly forgotten; but the words which the king had spoken remained rankling in the mind of his wife, and she frequently thought over them, and at last persuaded him to tell her what it was that had passed.

She at once resolved on revenge. But how was that revenge to be accomplished? At last an idea flashed across her mind. She stole the privy seal, and forged a warrant to the Lord Deputy to behead the earl. This warrant she despatched with the utmost secrecy and haste. Immediately the Earl of Worcester sent for the* Earl of Desmond to meet him in Drogheda, "a place somewhat remote from Munster, and whither the said earl's friends could not easily come." The Earl obeyed the Lord Deputy's command, and as soon as he arrived was arrested, and without any kind of examination or crime laid to his charge, was "made shorter by the head, to the great astonishment of the whole nobility of Irelande being at that time there present." The earl left at his death five sons, who, hearing of their father's unexpected end, sought for revenge. "Now King Edward himselfe, on learning of the death of his most worthy and illustrious subject, was woefully offended. The queen fled, and took sanctuary. The Earl of Worcester was summoned to explain the matter, and the earl appearing before the king in council, in his own defence, shewed his commission for the execution of Desmond, but all his excuses would not save him—off goes his head from his neck, to make satisfaction to the angry ghost of the Earl of Desmond."

The Earl of Worcester is said to have been one of the most learned, eloquent, and accomplished men that ever presided in the Irish Court of Chancery. He was a travelled man in days when the perils of travel were great. He had spent much time in Jerusalem and Rome; and it is said that he made so eloquent an oration before Pius II., that he drew tears from the eyes of His Holiness. The leisure hours of the earl were passed in translating works into the English language, and his name is mentioned with high commendation in Walpole's *Royal and Noble Authors*. Bale also makes honourable mention of him, and his memory was long precious in the Baliol College at Oxford, where he had graduated. His tragic end in 1470 is told in the "Unpublished Geraldine Documents," page 13, edited by the Rev. Samuel Hayman, from the *Journal of the Royal Historical and Archaeological Association of Ireland*, 1870.

61. **A. D. 1463.**—THE EARL OF KILDARE. Thomas, the seventh Earl of Kildare, had long filled high offices in the State, and had been in 1454 deputy to the Lord Lieutenant, Richard Duke of York, on his departure for England. During the five ensuing years he continued in office, and resigned when the Duke, then in rebellion against Henry VI., returned to the Castle of Dublin. On the duke's final departure he was again deputy, and was continued in his office by Edward IV. in 1461. In 1463 he was appointed Lord Chancellor of Ireland for life,

and in the following year founded the friary of Adair Manor, for the Friars Minor. The earl, however, did not continue to hold the seals longer than five years, when he again became Lord Deputy—an office which was then, however, but the shadow of what it had once been. Every man in England was ranged on the side either of the House of York or of that of Lancaster, and with difficulty could an army of two hundred men be kept on foot, to protect the vanishing power of the English in Ireland. To remedy so great an evil, a military society under the name of “the Brothers of St. George” was founded. It consisted of thirteen brethren, of whom the ex-Chancellor was one. By this brotherhood, a small army of one hundred and sixty men was maintained. Strange to say, the native Irish never thought of using such an opportunity for a national purpose; but, clan fighting against clan, they forgot their common foe! The earl died on the 25th March, 1477, and was interred in the monastery of All Hallows, where Trinity College now stands.

62. A.D. 1468.—ROBERT ALLAMESTON.

63. A.D. 1469.—SIR WILLIAM DUDLEY.

64 and 65. A.D. 1472.—LORD PORTLESTER and JOHN TAXTON, priest, jointly. Although the Great Seal, when put in commission, now as in times past, is entrusted to several commissioners, we have yet been unable to find any other instance where, as in the case of which we write, the office of Chancellor was given to two joint tenants, and to the survivor of them—for so the patent is worded. Neither, however, of the co-Chancellors took advantage for any lengthened period of their joint tenancy, which would appear to have been sundered and surrendered in 1474, when another Chancellor was appointed. Of Taxton, or of his previous or subsequent career, nothing whatever is known. Lord Portlester was again Chancellor in 1488, and then retained office during four years. In 1492 he retired into private life, died in 1496, and was interred at the new abbey which he himself had founded at Kilcullen, in the county of Kildare. He had also built, in 1455, a chapel attached to St. Audeon's Church, Dublin, in the porch of which there still remains a cenotaph bearing the figures of a knight in armour, with his wife. Encircled on the margin is the following inscription:—“*Orate pro anima Roland Fitz-Eustace de Portlester, qui hunc locum sive capellam dedidit in honorem Beate Mariæ Virginis; etiam pro anima Margaritæ uxoris sue, et pro animis omnium fidelium defunctorum, A.D. 1455.*”—“Pray for the soul of Roland FitzEustace of Portlester, who has given this place or chapel to the honour of the Blessed Virgin Mary;

also pray for the soul of Margaret, his wife, and for the souls of all the faithful departed, A. D. 1455," this being the date of the building of the chapel. In the churchyard of Cotlandstown, near Ballymore Eustace, is a curious stone, about four feet long, apparently the shaft of some ancient cross, on one side of which is "Eustace, Lord Portlester, 1496," and on the other the baron's coronet.

66. A. D. 1474.—GEORGE DE VENHAM.

67. A. D. 1480.—WILLIAM SHERWOOD, Bishop of Meath.

68. A. D. 1481.—LAWRENCE DE ST. LAWRENCE.

69. A. D. 1483.—LORD HOWTH, (15th baron).

70. A. D. 1483.—THOMAS FITZGERALD. As the FitzGerald, Earls of Kildare, were during the Wars of the Roses active in supporting the pretensions of the House of York, so now that Edward IV., a prince of that house, sat upon the throne, they found placed by him at their disposal the chief posts in the government of this country. The office of Lord Deputy was filled by the Earl of Kildare, that of Lord Treasurer by his father-in-law, Lord Portlester, while the seals of the Court of Chancery were held by Thomas FitzGerald, a brother of the Earl. Under Edward V. and Richard III. they continued in power; and though it might have been presumed that on the accession of Henry VII. their places would be filled by men of Lancastrian tendencies, yet that prince, nevertheless, pursuing a temporizing policy, continued those high officers of state in their respective positions. It was his wish to win for the House of Lancaster the affections of a people that had been enthusiastically devoted to the House of York; but their loyalty to the White Rose was incorruptible, and whilst they shuddered at the crimes of Richard III., they yet looked back with affectionate remembrance on the gentle rule of his father, the Duke of York. The Earl of Warwick, son of the Duke of Clarence, whom the genius of Shakspeare and the butt of Malmsey have made famous, was grandson of the Duke of York, and was his nearest male representative. As such, he gathered to himself all the hopes of the Yorkist party; and though he was not heir to the throne (for undoubtedly Elizabeth, wife of Henry VII., and eldest daughter of Edward IV., was by right the first in succession), still faction was ready to overlook that flaw in his title, and to accept him as the champion of his House. The Earl of Warwick was at the moment we speak of a prisoner in the Tower, but a report was spread that he had escaped, and had made his way to Ireland. A young man named Lambert Simnel chanced to bear a striking resemblance to the Earl, and in consequence was taken

in hands by the malcontents, and instructed in the part he was to play. Sensible, nevertheless, that in England the imposture would be easy of detection, his partizans thought it better to exhibit him at the first on a distant stage, and conveyed him therefore to Ireland, where the prince was almost unknown, and where, therefore, the truth was less likely to be discovered. He was welcomed in Ireland by the people with a burst of enthusiasm, and the Lord Deputy, the Lord Treasurer, and the Chancellor, received him with open arms. He was solemnly crowned on Whit-Sunday, 1487, in the Priory of the Holy Trinity, by Walter FitzSimons, Archbishop of Dublin, afterwards Lord Chancellor, with the title of Edward VI., King of England and Lord of Ireland. To place him on the throne of his fathers was a work, however, not yet half done; and to accomplish this a descent should be made on the English coast. Multitudes flocked to his standard; amongst them, as we have said, the Chancellor and the Chief Justice of the King's Bench; Thomas Plunket, third son of Christopher, the first Lord Killeen. Meanwhile the king caused the true earl to be led through the streets of London, that so the fraudulent nature of the claim might be manifest to all; and in England, accordingly, the cause of the Pretender made but little way, while the Irish, on the contrary, retorted on the Crown the charge of an imposture. An army of eight thousand men, mostly Irish and Germans, followed the standard of Simnel as far as Stoke in Nottinghamshire, where they were met by the royal forces. A battle ensued, the imposter was taken prisoner, and four thousand of his followers were slain. Amongst the slain, and covered with many wounds, was found the body of the Lord Chancellor. The Chief Justice escaped, and was afterwards, but with much difficulty, pardoned, though he was degraded from the Bench; while the Earl of Kildare, who had not accompanied the expedition, was continued in the office of Lord Deputy; and Lord Portlester, whose pardon was duly enrolled in the Court of Chancery, was appointed to the office of Lord Chancellor—a situation he was permitted by Henry VII., during the four succeeding years, to enjoy. [*Supra*, 64th Chancellor].

16385.
71. A. D. 1492.—SIR ALEXANDER PLUNKET. The Chief Justice, Sir Thomas Plunket, survived his degradation from the Court of King's Bench for the short space of two years. He had been twice married: first to a daughter of T. Cusack of the county of Meath, and secondly to a daughter of C. Cruise of Rathmore. At his death he left several sons, of whom the second was Alexander, the subject of our memoir. Sir Alexander, we are informed, was a "man of great account" in his day; he

was seised and possessed of vast estates within the Pale, and was one of the Knights of St. George, of whom we have already spoken. Of his decisions or his acts in the council nothing is now known. He held the seals during two years, and then retired. His will is still in existence, and he thereby makes provision for his sons and daughters, and endows a chauntry priest "to say or sing masses in the church of St. Lawrence, Rathmore, for ever for his father's soul and his mother's soul, and for all the souls of all the Plunkets." Dying in 1503, he was interred in Rathmore, under a monument erected to his memory.

72. A. D. 1494.—HENRY DEANE, Archbishop of Canterbury, was a canon regular of the order of St. Augustine, of the abbey of Llanthony, in Monmouthshire, of which in 1490 he became prior. This high ecclesiastical appointment brought him under the notice of Cardinal Morton, then Archbishop of Canterbury and Lord Chancellor of England, by whose advice Henry, alarmed at the chronic state of disaffection in Ireland, sent Sir Edward Poynings as his deputy and the Prior Deane as Chancellor to that country. Immediately on their arrival a parliament was convoked at Drogheda under the presidency of the Lord Chancellor, of whom Hall, the chronicler of those times, speaks as a man of great wit and diligence, and that "he addressed the assembled nobles with a gentle exhortation, requiring them to persevere in due obedience and fidelity towards their king, and to aid the Lord Deputy with their might, power, and strength." This parliament passed the celebrated Act of 10th Henry VII., chapter 4, whereby it was enacted, that no parliament be hold hereafter in Ireland, but at such season as the king's lieutenant and council do first certify to the king under the Great Seal, and the causes for summoning the parliament to be convoked; and further, that all the Acts to be passed by any parliament in Ireland must be first approved of by the king. This Act virtually made the Irish parliament a nullity; and when in after times it came to affect not merely the English Pale, for which it was originally framed, but the whole of Ireland, when brought under English law, it was felt to be one of the most intolerable among the grievances under which this country suffered. Another Act was then passed confirming in Ireland all the statutes made theretofore in England. This Irish parliament further distinguished itself by an Act destroying the independence of the Irish Judges, and making them subject to instant removal at the pleasure of the Crown. Henry VII., elated at his success in passing these measures, was resolved to reward the Chancellor by obtaining for him the first ecclesiastical preferment that became vacant. This chanced to be the Bishopric of Bangor; and the Chancellor having resigned the seals, became in 1496 bishop

of that diocese. He was translated thence in 1497 to Salisbury, and on the death in 1499 of Cardinal Morton, was consecrated Archbishop of Canterbury, and immediately after was entrusted as Lord Keeper with the Great Seal of England. In 1501 he was appointed by Pope Alexander VI. Papal Legate in that country. The name of Deane, Archbishop of Canterbury, must ever remain associated with events remarkable in the history of England. It was he who performed the marriage ceremony between James IV., King of Scotland, and Margaret, daughter of Henry VII.—a union which bore fruit, and which, after a hundred years had passed away, put an end to all future wars between the two kingdoms, by the accession of the grandson of that marriage to the throne of both. The Archbishop also performed the marriage ceremony between Arthur Prince of Wales, the eldest son of Henry VII., and Katharine of Arragon, a marriage which caused so many and such great changes in the national religion of the three kingdoms. On the 11th of February, 1503, he expired at his palace at Lambeth. His decisions in the Irish Court of Chancery have not come down to our day, but his capabilities as a Chancellor are said to have been of a low order.

73. **A. D. 1496.**—WALTER FITZ SIMONS, Archbishop of Dublin, to which see he was promoted in 1484, having been previously Precentor of St. Patrick's. The hostility that prevailed in those early times between the English inhabitants of the Pale and the Irish enemies outside the borders thereof is evidenced by an unprinted Act passed in this year (1484), whereby it was recited "that many of the parishes of the Archbishop of Dublin, in right of his see, were situated amongst the Irish enemies; and as no Englishman could inhabit those parishes, and that inasmuch as the English priests did not understand the Irish language, by which means the cure of souls was neglected, it was therefore enacted that the archbishop may appoint Irish priests for a certain time to those parishes." In 1487, Fitz Simons, deluded by the impostor Simnel, assisted at his coronation in Christ Church, but in the following year he was pardoned, and was allowed to renew his allegiance. In 1492 he was appointed Lord Deputy to the Viceroy, the Duke of Bedford. Having retired from that office, he was Chancellor from 1496 to 1498. In 1501 the Archbishop was once again Chancellor, and remained in office, with an interruption of a few months in 1509, until his death in 1513, when Lord Howth succeeded him.

74. **A. D. 1498.** WILLIAM ROKEBY, Archbishop of Dublin. This Chancellor held the seals from 1498 to 1501, in which year he became Bishop of Meath. He was an Englishman by birth, as the prelates of the English colonies in Ireland invariably

were, while the bishops of the Irish-speaking districts were always taken from the Celtic race. He took his seat in the Privy Council in 1507, in 1511 became Archbishop of Dublin, and in 1514 brought to a happy termination differences that had long existed between the Archbishops of Dublin and the Dean and Chapter of St. Patrick's. In 1515 he was again appointed Lord Chancellor by Henry VIII. ; and in 1518 convened a provincial synod, whereat many wise rules and regulations were framed. Amongst others, provision was made for the due examination of candidates presenting themselves for Holy Orders from the provinces of Armagh and Tuam. It is amusing to read one of its decrees—that no priests should thenceforward play at football under a penalty of three shillings and fourpence, to be paid to his bishop. In this year an ecclesiastical college, which was founded at Maynooth by Gerald, Earl of Kildare, received the especial confirmation of the Chancellor Archbishop of Dublin. Having healed the unhappy feuds that had raged between the Ormond Butlers and the Earl of Desmond, the Most Reverend Chancellor died in 1527, and was succeeded in the same year, in the office of Chancellor, by Hugh Luge, Archbishop of Dublin.

75. A. D. 1509.—LORD HOWTH, Sir Nicholas St. Lawrence, 16th baron of Howth, was chief of a family even then old—so old that the memory of its remote origin is almost buried in oblivion. Long before the Norman Conquest it occupied a high position in England. Its name had been Tristram, and was changed to St. Lawrence by one of its chiefs, who was in command of an army marshalled on St. Lawrence's day, on the plains of Clontarf, against the Danish invaders. This chieftain, before he unsheathed his sword, made a solemn vow to the saint on whose day the battle was about to be fought, that if victory were granted to his arms he would change his name to that of St. Lawrence. After a hot but successful engagement he performed his vow, and took that name, which has ever since been the surname of the family. Sir Nicholas was entirely devoted to the interests of the house of Lancaster ; and when Simnel personated the Earl of Warwick, in 1486, his lordship made known the designs of that impostor to the king, whose cause he was foremost in supporting. Nor were those services unrequited, for his lordship was presented by his sovereign with three hundred pieces of gold, and had a confirmation of the patent of his estates. He attended the parliaments of 1490 and 1493, and afterwards accompanied the Lord Deputy, the Earl of Kildare, to the famous battle of Knockdoc—in Irish, *Knock-ne-thuagh* (the hill of the battle-axes), fought in the county of Galway, on the 15th of August, 1504—a battle that

resulted in breaking down the power of the Burkes of Clanrickard in the countries west of the Shannon. The struggle was sanguinary, four thousand men having perished on the field. In 1509 Lord Howth became Lord Chancellor, but held the seals for a few months only. His name, however, is frequently appended to orders of the court of the Privy Council, then the court of ultimate appeal.

76. A.D. 1513.—**SIR WILLIAM COMPTON.** On the death of Archbishop FitzSimons, in this year, Sir William Compton was appointed Lord Chancellor at the early age of two-and-thirty. He had previously been honoured by Henry VIII. with sundry appointments. He was groom of the stole, groom of the bed-chamber, and constable of Gloucester castle; had many manors and lands granted to him, and in 1513 was entrusted with the command of the rear guard of the army then in Flanders. In the same year he was recalled and appointed Lord Chancellor of Ireland for life, in which high office he gave great satisfaction. Cardinal Wolsey felt, it was said, a jealous apprehension of the growing power of Compton. Though empowered to execute the office of Chancellor by deputy, he felt it more prudent to perform in person those responsible duties. Having held office for two years, he resigned the seals on the 24th March, 1515, and returned to England, where his good fortune followed him. The Duke of Buckingham, having fallen into disgrace with Henry VIII., was attainted, and his estates confiscated; and numbers of his manors in Yorkshire and Warwick were granted to Sir William Compton. Having been sent in 1523 to make incursions into Scotland, he soon returned to England, where he busied himself about domestic rather than state affairs. He built a noble mansion on his manorial estate of Compton, in Warwickshire, which, standing at the present time, is known as Compton Wynyate, and is one of the seats of the Earl of Northampton, his lineal descendant. His princely residence Sir William was not long destined to enjoy: he had no sooner gone to reside there than he was attacked with the sweating sickness, and died in the early part of 1528.

77. A.D. 1527.—**HUGH INGE,** Archbishop of Dublin, was a graduate of the University of Oxford. Having taken Holy Orders, he obtained several preferments in the Church; was appointed Bishop of Meath in 1512, and in 1521 succeeded Archbishop Rokeby in the See of Dublin. In 1527 he was appointed Lord Chancellor of Ireland. Polydore Virgil says: "He was distinguished for wisdom and justice, and for putting the kingdom into as good a state of defence as the untowardness of the wild Irish would suffer; he was zealous as an archbishop and upright as a judge." He repaired the episcopal palace of

St. Sepulchre's, and placed his arms over the entrance door. Having served for the short space of one year as Chancellor, he was attacked by the sweating sickness, of which he died on the 3rd of August, 1528, and was buried in St. Patrick's Cathedral.

78. A.D. 1528.—JOHN ALLEN, Archbishop of Dublin, was educated at Oxford, where his brilliant abilities brought him under the notice of the Archbishop of Canturbury, who in 1515 entrusted him with important negotiations at the court of Rome. The satisfaction he had given was sufficient introduction to Cardinal Wolsey, Archbishop of York, who had shortly previous to that time been made papal legate in England. His vast powers in the ecclesiastical and civil estates of the realm made it incumbent on the cardinal to erect a court which had hitherto been unknown to the common law, called the Legatine Court, where matters of conscience—perhaps of scandal—were inquired into; and of this court John Allen was appointed judge. He was one of Wolsey's great abettors in procuring the dissolution of forty of the lesser monasteries, for the purpose of endowing the cardinal's colleges at Oxford and Ipswich. New ideas were at this time fastening themselves on the minds of men. The ancient institutions of the Catholic Church were prostrate in foreign countries; and to defend the doctrines now assailed, Allen was in 1528 raised by the Holy See to the dignity of Archbishop of Dublin. In the same year he was appointed by Henry VIII. Lord High Chancellor of Ireland. He immediately applied himself to the strengthening of the castle fortifications—the better to protect the Court of Chancery, which was then held within its walls—and paid the expenses of the work out of his private income. In 1532 he was deprived of the seals by the Lord Deputy, the Earl of Kildare; and George Cromer, Archbishop of Armagh, was appointed Chancellor in his place. The provisions of the Statute of Kilkenny had at this time fallen into disuse, and marriages between those of English and Irish blood were matters of every-day occurrence, and were unnoticed by the deputy. Of these offences the crown was duly informed, and complaint was made, that the lords and gentlemen of Kildare and Carlow, instead of obeying the king's writ, would only answer the summons of the Earl of Kildare. These were heavy accusations against the deputy; he was, therefore, summoned to the king's presence, there to give an account of his stewardship, and was instructed at the same time to appoint a deputy upon whom he could depend in his absence. The person selected for this responsible office was his son Thomas, a youth not then twenty-one years of age. Having caused him to be duly sworn in, the Earl took his departure for England, where, after

his defence, he was committed to the Tower. The report at once spread in Ireland that the Earl of Kildare had been executed in London, and the unprincipled enemies of the Geraldines, who had circulated this and other false statements, went so far as to assert that the deputy, Lord Thomas, would be treated in like manner. The youthful Geraldine thereupon, at the head of 140 armed men, marched to the council, which were just then sitting in St. Mary's Abbey; and there renounced his allegiance to the king. He and his followers then appealed to arms, and setting up the standard of revolt, rushed on that course which afterwards brought ruin upon himself and his whole family. Silken Thomas, as this rash young nobleman was called, from the silken banners carried by his standard-bearers, without inquiring as to the truth of the report of his father's death, made an onslaught on the Anglo-Irish, wasting with fire and sword all before him, even to the Castle gates. Archbishop Allen, terrified at the outbreak, and remembering that he was one of those who had joined in laying before the king the offences of the Earl of Kildare, well knowing that the storm of popular fury would be directed against himself, made the best of his way, therefore, to a small quay on the Liffey, close to where Essex Bridge now stands, and there he took shipping for England. The vessel sailed, but owing, it was pretended, to a strong wind from the south, but more likely to the treachery of the seamen, the whole party were cast on the Clontarf shore. Allen hastened to claim the hospitality of a Mr. Holywood, of Artane, which was, of course, extended to him. But Silken Thomas, hearing that the Archbishop, the enemy of his race, was a guest in that house, caused him the next day to be dragged forth and cruelly beaten and murdered in his presence. This bloody deed was committed on the 28th of July, 1534, and was followed by the public excommunication of all the parties concerned therein. On his death the temporalities of the see were granted to George Browne, the first Protestant Archbishop of Dublin, and they have, with the exception of a few years in the reign of Queen Mary, remained to our day in the possession of the prelates of the Protestant faith. Allen was the author of several works of considerable merit—the *Repertorium Viride* and *Liber Niger*—containing a true account of the churches in the archdiocese of Dublin. He also wrote a commentary on St. Paul's epistle. Lord Thomas FitzGerald was captured soon after the Archbishop's death, and was sent in chains to London, and there hanged, drawn, and quartered, and with him his five uncles; his father having died in the Tower shortly before that time.

79. A.D. 1532.—GEORGE CROMER, Archbishop of Armagh, entirely devoted to the Geraldines, was raised to the primatial



* PAGE

DUBLIN.

LORD THOMAS FITZGERALD, on the 11th of June, 1534, renouncing his allegiance to Henry VIII., resigns the Sword of State to GEORGE CROMER, Archbishop of Armagh, Lord Chancellor, and President of the Council—on whose left is ex-Lord Chancellor AYLMER, Archbishop of Dublin.

see in the same year in which he was appointed Chancellor, through the influence of the unfortunate Earl of Kildare. One of his first official acts was to issue an excommunication against all those who took any part in the murder of the late Archbishop. The account, however, given in this interesting document of the bloody affair differs slightly from that given above :—

“*Murder of the Archbishop of Dublin.*—The excommunication of Thomas Fitz Gerald and his uncles for killing the Archbishop of Dublin.—Whereas Thomas Fitz Gerald, eldest son of the Earl of Kildare, not only procured John Teyling and Nicholas Wafer, to put violent hands upon John Allen, late Archbishop of Dublin, taking him prisoner at Howth, and from thence conveying him to Artane, within the diocese of Dublin, but also he the said Thomas, accompanied by Thomas Fitz Gerald and Oliver Fitz Gerald, brothers to the said Earl, together with divers other evil-disposed persons, murdered the said Archbishop, we publish and declare all the said persons to be excommunicated. We also declare interdict the place where the Archbishop was killed, and likewise all cities, lands, castles, villages, chapels, and other places wherein the said cursed persons are or shall be, commanding all persons of the province of Dublin to cease from the administration of divine service so long as any of the said persons shall be present. To the terror and fear of all the said damnable persons, we have directed the bells to be rung and the candles to be quenched.”

This primate protested openly against the revolt of Henry VIII. from the Church, and summoned the prelates and priests of his province to advise with him on the situation of ecclesiastical matters. Forthwith he despatched two discreet and learned divines to Rome, to represent to his Holiness “the dangers that were threatening the Church of Christ in this country.” Henry had, however, cast in his lot with the Reformers, and an Act of Parliament was passed, decreeing that his Majesty was the supreme head of the Church in Ireland. He now undertook to fill the See of Dublin, without any communication with the court of Rome, and accordingly appointed George Browne—who had been an Augustinian monk, but who had forgotten his vows—the first Protestant Archbishop of the Metropolitan See. Browne sought to establish the Reformation in this country, but in this he was strenuously opposed by the Archbishop of Armagh. The latter was meanwhile removed from the office of Chancellor, and was cast into prison; and the king, spurred by the love of plunder, resolved to take measures for the suppression of the monasteries. Oppressed with grief at the desolation that reigned around him, Cromer died on the 10th of March, 1542.

80. A. D. 1534.—LORD TRIMLESTON. On the removal of Cromer from the Court of Chancery, the seals were committed to John Barnewell, Lord of Trimleston, and one of the judges of the Court of King's Bench. As it had been the custom of the Chancellors of earlier years to put themselves at the head of the troops, so this Chancellor, buckling on his armour, headed the royal forces, and marched into Offaly to oppose Cahir O'Connor, an Irish chieftain, who was then laying waste the borders of the Pale. After some sharp encounters, the chieftain returned a beaten man to his western home. By the advice of Lord Trimleston the king extended the area of taxation to the river Barrow—an extension which his lordship calculated would add some £5000 a-year to the public purse. Nothing otherwise remarkable occurred during the term of his office.

81. A. D. 1538.—SIR JOHN ALLEN was nephew of the murdered Chancellor-Archbishop, whose private secretary he had been. The influence of Cardinal Wolsey procured him the appointment of Clerk of the Privy Council in Ireland; and his letters on the state of that country occupy a large portion of the State Papers of the time of Henry VIII. A grave question as to the legatine jurisdiction of Cardinal Wolsey in Ireland arose soon after the above-mentioned appointment of Sir John Allen; the native Irish outside the Pale insisting that the Papal Bull appointing Wolsey legate in England was not large enough to embrace Ireland; while the Anglo-Irish party insisted that it was. On this subject Allen thus advised his eminence under date of the 4th of July, 1524:—

“As you have admitted me to your service, I have thought it my duty to write to you from time to time of the causes committed to me. Enclosed is a list of the dispensations and other things which have been sped by your authority since our coming into *these exile parts*, containing what sums of money have been received from the same. It is a great marvel that so much is done, considering the great poverty of the Irishry, which it is said is greater than *lutherto*.” He then goes on to state that the Irish people took no notice whatever of the legatine powers, and that much doubt prevailed in the English districts “about your grace's bulls (from Rome), whether you be legate here or not.” The Archbishop of Armagh and his suffragans, living amongst the Irishry, entirely denied that his powers extended to Ireland. By patent of the 25th Henry VIII., Allen was made Master of the Rolls, to hold to him “for life with a salary of £20, payable out of the customs of the ports of Dublin and Drogheda.” On the last day of August, in the same year (1534),

he took the oaths before the Lord Chancellor Cromer, Archbishop of Armagh. The duties of his new office were not of so onerous a nature as to compel him to resign the clerkship of the council, which had also been bestowed upon him for life. Shortly before his elevation to the bench, commands were given him by the council to report to the king "the cause of the great decay of the land, that neither the English order, tongue, nor habit, nor the king's laws, be obeyed there above twenty miles in compass." He replied that the people, in effect, were plundered by the connivance of the viceroy; that they were rackrented by their landlords; and that the Englishry preferred "Irish barbarism" to the English rule. Allen having prepared the report, it was brought up before the king, and was soon after, in 1534, followed by the great ordinance for the government of Ireland. Many acts of tyranny on the part of the landlords were prohibited—such as compelling their tenants to give them and their followers suppers, and enforcing "the charge of a peck of oats at seed time for every plough; that the tenants be no longer compelled to send their carts and men to build their landlords' houses without payment, and that they be no longer compelled to send their carts and horses to labour at their landlords' buildings unless on the borders or marshes, when erecting fortifications against the Irish enemy."

Although John Allen was nephew to the Chancellor-Archbishop, still he faltered not in following in the footsteps of Henry VIII., supporting by word and deed the doctrines of the Reformers. He was unrivalled in his denunciations of the bishop of Rome, as he affected to call the Pope; and he chose for his constant ally George Browne, the Protestant Archbishop of Dublin. He was therefore the fittest to aid the King in dissolving the monasteries, and was accordingly appointed for that purpose to the office of Lord Chancellor. Even before the suppression, he applied that the monastery of St. Thomas, close to the city of Dublin, where Thomas-street now stands, might be granted to him, "if it should be dissolved." "I have no house," he wrote to Cromwell, "to live in, nor provisions for one horse for myself there; and if it please your lordship that I may have the monastery of St. Thomas' Court to farm." This alleged poverty of the Chancellor does not appear to accord with the fact, when the following letter from his friend, Archbishop Browne, written on the 16th of February, 1538, to Cromwell, is remembered. "God knoweth what a treasure the king's majesty and your lordship have here in my Lord Chancellor, who is a right wise gentleman and an impartial judge, who sifteth matters depending before him full briefly, to the great ease of the king's subjects, the poor suitors. His lordship also keepeth a right sumptuous house, like a Chancellor, as much to his prince's

honour as any Chancellor did here for many years past, notwithstanding that his possessions were not so good as other Chancellors' were. I am ashamed to tell your lordship how my Lord Deputy doth use himself towards my Lord Chancellor; what the cause is I cannot understand, unless it be in disdayne that my Lord Chancellor keepeth so bountiful a house, which indeed hitherto is far above the Lord Deputy's."

The Act passed for the suppresssson of monasteries was followed by a commission to the Lord Chancellor and others therein named. That commission, which contains no charge of immorality or other offence, is as follows:—"Whereas, from information of trustworthy persons, it being manifestly apparent that the monasteries, abbeys, priories, and other places of religion, are at present in such a state that in them the praise of God and the welfare of man are next to nothing regarded, the regulars and nuns dwelling there being so addicted, partly to their own superstitious ceremonies, partly to the pernicious worship of idols, and to the pestiferous doctrines of the Romish pontiff, that unless an effectual remedy be promptly provided, not only the weak lower order, but the whole Irish people, may be speedily affected to their total destruction by the example of these persons. To prevent, therefore, the longer continuance of men and nuns in so damnable a state, the king, hath resolved to *resume* into his hands all the monasteries and religious houses for their *better* reformation, to remove from them the religious men and women, and to cause them to return to some honest mode of living and to the true religion." The king then directs the Chancellor and other commissioners to signify his intention to the heads of the religious houses to receive their resignations and surrenders *willingly* tendered, "and to *apprehend* and punish such as adhere to the authority of the Romish pontiff and *contumaceously* refuse to surrender their houses." The commissioners to take charge, for the *king's use*, of the possession of those houses. They visited and closed the religious houses in the city; and the monks departed from those peaceful retreats in which many of them had lived from youth to age. Abbeys more remote were next treated in the same fashion: priceless manuscripts were burnt; the church plate was seized by the Chancellor and Chief Justice for the use of His Majesty; the bells were taken down from their lofty bell-stages, and the gardens and the fields which the industry of the monks had rescued from the forest or the morass were vested in the commissioners and sold by auction, and the produce of the sale transmitted to the king. The commissioners who had been authorised to inquire and report on the immoralities of the inmates, specifying the names of those "that led such damnable lives," made their report accordingly; but they failed to find that any of these

accusations had been substantiated. The Lord Deputy, Lord Leonard Grey, endeavoured to shelter six of these religious houses from ruin—"For there," he writes to the king, "man-kinde and woman-kinde and young childer be taught in religion, in vertue, and in the English tongue;" but the king was inexorable. Thus fell those monasteries which had for many centuries sent missionary monks over the continent of Europe—missionaries to whom the nations of the West owe that civilization which has elevated them over the empires of Africa and the East. The suppression of the monasteries cast a shadow over the country, from which it has not even yet emerged. Up to that period, their property was devoted with a discriminating liberality, which, however it may be censured by political economists, relieved the people. They felt not the cancer of the succeeding poor laws. The magnificent evidences of monastic bounty are scattered in ruins over the land: churches, abbeys, colleges, schools, hospitals. These, though in decay, still powerfully record the generous forethought of those who dwelt there, for all that could promote the encouragement of learning and the comfort of the poor. Constantly residing in their convents, in the centre of their estates, the monks are acknowledged to have been the best and most indulgent of landlords. They afforded a ready market for the produce of the vicinity; they expended their income amongst their tenants; they extended hospitality to the pilgrim and the stranger; they educated the fatherless, they were friends to the friendless; and, by the mildness and justice of their rule, were a living protest against the anarchy of the time and the oppression of the neighbouring chieftains.

By the confiscation of the monasteries, the royal reformer, Henry, acquired enormous wealth. He now resolved to add a new title to the Crown—that of King of England and Lord of Ireland being beneath his dignity. A parliament was accordingly summoned to meet before the Lord Deputy St. Leger at Trim, when the statute 33 Henry VIII., chapter 1, was passed, whereby it was declared that the king, his heirs, and his successors, were to enjoy the style, title, majesty, and honours of King of Ireland. The Lord Deputy thus informed his majesty of the passing of the Act: "After our most humble and bounden duties, it may please your most excellent Majesty to be advertised that your Highness' parliament began *crastino Trinitatis*, and the Tuesday next following resorted to the same the Earls of Ormond and Desmond, and with them the Lord Barry, the Lord Roche, the Lord Fitzmaurice, and hither came also the Lord Bermingham of Athenry, in Connaught, which lords have not been here of many years before; and the Thursday being Corpus Christi day, after a solemn mass of the Holy Ghost, resorted

to the parliament-chamber, where the commons presented to us their speaker, one Sir Thomas Cusack, who made a right good speech in praise of your majesty, most worthily deserved, and also declared what benefit came of obedience to princes and observing of laws, which, after being answered by your grace's Chancellor (Sir John Allen) in English, and by the Earl of Ormond translated into Irish, contented the said Lords and Commons." The next step taken by the king was to reconcile the great chieftains to the English government.

The Lord Deputy St. Leger and Sir John Allen were now involved in endless disputes. The former accused the latter of being a subverter of all deputies, which accusation, if false, lied like truth, remembering that Lord Grey had been sent to the scaffold some short time previously through the intrigues of this unscrupulous Chancellor. His reply, together with his many letters to the Lord Deputy, are collected in the state papers of those times. In his answer to the privy council he repels St. Leger's accusations of being a subverter of deputies, and states that he invariably did his duty, and that it will be found yet that he "was the cleanest-handed chancellor in matters of justice that ever was in Irelande within the remembrance of man." The deep-seated animosity which rankled in the Chancellor's heart against the Lord Deputy St. Leger, was owing perhaps to the outward reverence paid by him to Catholic forms of worship. On the 20th of October, 1538, Allen wrote that the deputy was a Papist, a hypocrite, and a worshipper of idols; that notwithstanding Archbishop Browne, Sir Thomas Cusacke, and the Lord Treasurer, had refused to come into the Abbey of Trim to hear mass, "the Lord Deputy, devoutly kneeling before the idol of Trim, heard three masses."

Archbishop Browne was in 1544 a suitor in the Court of Chancery in a cause in which Lord Howth was defendant, the subject matter in dispute being "the right, title and inheritance of the island called and known by the name of Ireland's Eye." The Lord Chancellor decided that it belonged to the see of Dublin, and that Lord Howth never had any seisin thereof, otherwise than by the license of the Archbishop, and at a certain reserved rent.

Towards the close of the reign of Henry VIII., Allen got entangled in some disputes that arose between the Lord Deputy St. Leger and the Earl of Ormond—the deputy, it appears, having resolved to impose certain taxes, which imposition the earl opposed. Each party accused the other of high treason, whereupon they and the Chancellor were summoned to the king's presence—William Brabazon being appointed Lord Justice, and Sir Thomas Cusack Lord Keeper. The matter was heard at considerable length, in 1547, before the king and

council, when both parties were reconciled; "but Allen, being found an ambidexter, or double dealer, was committed to the Fleet and discharged of the Chancellorship." The following year Sir Edward Bellingham, a zealous Protestant, was chosen by Edward VI. as Lord Deputy, and, through his interest, Sir John Allen was once more appointed Chancellor, when a cause of considerable importance, as affecting the trade of the town of Galway, was brought before him—the case of *Fitzsimons v. The Corporation of Galway*, which was shortly as follows:—

In 1542 a bye-law was passed by that corporation, whereby it was enacted that merchants from Dublin should, if they sold their wares in the town of Galway, pay the same customs as they should do if the said goods were thither imported in foreign vessels, and in default of payment of such customs the goods were liable to be forfeited. Now, in 1548, the plaintiff did import a cargo of cloth into the town, and paid therefor merely the duties payable on wares coming in from the country districts. Forthwith the corporation, by their officers, seized the cargo, and the plaintiff brought the matter before the Lord Chancellor of Ireland, the sole resource in those times for many cases which at present would be entertained by a court of law. The case was heard, and on the 13th February, 1548, a decree was made, declaring that the monopoly was void, as contrary to public policy and to the law of the land, and that the plaintiff was entitled to have his cloth restored.

In 1550, Allen was deprived of the seals, which were never again entrusted to him. The aged Chancellor, from some cause now unknown, appears to have been the object of much consideration from Queen Mary: "In respect," she writes, "of his great age and infirmities, we mind that he be not called on to go on any hostings or journeys, save when he conveniently may." Allen lived in seclusion for some years previous to his death, of which we have been unable to find any reliable record.

82. A. D. 1547.—SIR RICHARD READE was appointed Chancellor on the committal of Lord Chancellor Allen to the Fleet, Sir Richard's salary being increased by £200, payable out of the customs of Dundalk, Drogheda, and Dublin. On the 8th of November, in the same year, a commission was directed to Sir Anthony St. Leger, Lord Deputy, to Sir Richard Reade and others, commanding them to receive their surrender from the Dean and Chapter of St. Patrick, with all the jewels and ornaments of the church. Having remained a few months in office, he retired, on the re-appointment, as above stated, of Sir John Allen.

83. A. D. 1550.—SIR THOMAS CUSACK. In the province of Guienne in the south of France there stood, at the close of the

twelfth century, the castle of Cusack, which, surrounded by vast domains, gave its name to its proprietor. The first of the house, then ancient, who came to England was Geoffrey. He accompanied King John in his expedition against the Welsh, and in return for the bravery he then displayed received many castles and lordships. In Mayo he was granted the lordship of Tyrarley; in Meath, the castles of Gerardstown, Clonardran, Ross, Brennanstown, Folystown, Nowil, and the lordship of Killeen, which afterwards in 1403, on the marriage of Joan, sole heiress of Sir Lucas Cusack, with Sir Christopher Plunket, passed into the hands of the latter, by whose descendants, the present lords of Killeen and earls of Fingal, it is still enjoyed. Geoffry left on his death two sons; the younger of them was Andrew, father of John de Cusack, to whose military prowess may be attributed in a great measure the success of the English at the battle of Faughard, near Dundalk, in 1318, where Edward Bruce was killed. The dignity of knight banneret was then bestowed on John de Cusack as a reward for his heroic deeds of valour. He was married to a daughter of Fitz Gerald, Lord of Offaly, and was the ancestor, fifth in the ascending line, of Thomas Cusack, the subject of this memoir. Thomas Cusack entered early in life on a public career. On the 24th of May, 1534, he was appointed second Justice of the Common Pleas, at an annual salary of £20, and the following year was nominated Chancellor of the Exchequer. In 1542 he was chosen Speaker of the House of Commons, and was a supporter of the measure which elevated into a kingdom the lordship of Ireland. His next appointment was that of Master of the Rolls, which is thus stated on the Calendar of the Patent Rolls:—"15 June, 1543, Sir Thomas Cusack, of Cushington, was appointed to the office of Master of the Rolls, at a salary of £33 a-year." In 1546 he was associated on a commission with the Lord Deputy to receive the surrender of St. Patrick's cathedral, and on the 8th of January following the commissioners met in the chapter-room, when the vestments, chalices, and church ornaments were seized by them in the king's name, while the dean, on his own part and on the part of the chapter, surrendered the patrimony of that ancient body to the crown. St. Patrick's was then closed as a church, and was degraded into a place for holding the four courts. The vicar's house, however, was assigned, in the words of the patent, "for a grammar school, and for the lodgings of the pedagogue and hypodidasculum of the said school." In the division of the church property Sir Thomas Cusack was not forgotten. Appointed Lord Chancellor on the 14th of January, 1550, a grant was immediately made to him of the dissolved "monastery of Cleonarde, with 225½ acres thereunto appertaining, in the county of Meath." The Chancellor's first concern was to make an

official tour through many parts of the kingdom, and visited amongst others the country of Clanrickarde, which had been lately surrendered to the crown. He made many valuable suggestions for its pacification; and so struck was the Earl of Clanrickarde with the wisdom of these suggestions, that he resolved to enforce them, and with this end "caused," as he tells the lords of the council, "certain gentlemen to be hanged, drawn, and quartered, and others only to be hanged, so that all the Chancellor's conclusions might sink the more surer into the hearts of others."

In the year 1552 he addressed a letter to the Duke of Northumberland on the then state of Ireland. This work (of great rarity and much curiosity) tells us of the manners and customs of our ancestors over 300 years ago, and it speaks of the laws of the country, and of how those laws were carried out; and it also suggests many improvements, as follows:—

"STATE OF IRELAND.—The copy of this book sent from Sir Thomas Cusack, Lord Chancellor of Ireland, to the Duke of Northumberland's grace, for the present state of Ireland:—

"MUNSTER, under the rule of such lords and captains as are there, and of the Earl of Desmond, is in good quiet, so that the justices of the peace ride their circuit, in their counties of Limerick, Cork, and Kerry, being the farthest shires west in Munster, and the sheriffs are obeyed. The lords and captains of those counties, as the Earl of Desmond, Viscount Barrie, Lord Roche, Lord Fitz-morris, and divers others, who within a few years would not hear or obey the law, are now in the commission, with the justices of peace, to hear and determine causes. The Irish captains in those quarters do not stir, but live in such quiet that the English captains at Cork, with forty horsemen, cause the offenders to stand to right. M'Cartie More, who is the most powerful Irishman in Ireland, is now very conformable to good order, having of late, by persuasion of the said English captains, obeyed and performed certain orders taken betwixt him and others of the country. If a stout gentleman, skilful and of estimation among them, were president at Limerick, to see justice indifferently administered amongst them, and the captain appointed to attend upon him, to see the orders and decrees put in due execution, no doubt but the king should not only win many good subjects, but also, within a short time, have a large revenue, where now he has nothing more than obedience in Munster.

"LEINSTER," the writer says, "is in good stay at this instant, for my Lord Deputy, of late repairing into those quarters, took order with Cayrey McArthe, and the rest of the Kavanaghes, and appointed every gentleman his territory, and placed certain English captains with their bands amongst them, some

of said captains at Leighlin, some at Ferns and Enniscorthy, and some at Tymolenge, a place wherein the Cavanaghs and other malefactors formerly disturbed such as brought stuff by water from Rosse or Waterford to Leighlin or Carlow, and likewise placed certain of the king's soldiers between them and the county of Wexford.

"The Byrnes, and such other of Irish sorts dwelling in the rest of Leinster, and next to the Kavanaghs, are of honest conformity, and pay no rent to the King's Majesty, but support 120 light-armed foot soldiers, paying each of them four pence sterling by the day, and are able to have 80 horsemen, with many footmen within their country, being men always ready to stand to good order at the appointment of my Lord Deputy and council.

"THOMOND [a district comprising the whole of the county of Clare, and part of Tipperary] is beside Limerick, wherein the Breanes [O'Briens] do inhabit, and since the time that O'Brean was created earl the same is in good order and quiet; but after the decease of the late Earl of Thomond, Sir Donough O'Brien, baron of Ibrackan, being, by the king's grant, appointed to be the next earl, for fear of his brother, Sir Donald, and the rest of the gentlemen of the country, did name his said brother to be tanist, after the Irish custom, which being repugnant to the king's grant, the Lord Deputy, hearing thereof, sent for the same baron, and laid that to his charge, and upon his own confession, and of his misbehaviour therein, sent also his letters to the said Sir Donald, and the rest of the gentlemen, to stand to the King's Majesty's orders, and to refuse their Irish custom of tanistry; whereupon, without war or force, they all abjured the said Irish custom, and obeyed the baron as Earl of Thomond, according to his Majesty's grant, and abjured the name of tanist, and now there are few countries in Ireland in better quiet than they.

"Between Limerick and the county of Tipperary are Irishmen of great power, the M'Williams [Burkes], M'Brenes, O'Gonnaght, M'Brien Are, O'Mulryan, with divers others, who, a few years ago, were all wild, and not conformable to any good order, and yet they are now ordered by the sheriffs of the shires, so that men may quietly pass throughout their countries at pleasure, without danger of being robbed, or other annoyance, and everyone dwells in their own country quietly, without annoyance or hindrance from anyone.

"Other Irishmen's countries, betwixt that and Upper Ossory [now county Kilkenny], as O'Kennedy and O'Dwyre, and the Carrowlles, support light-armed foot soldiers to His Majesty without contradiction, and those were formerly mortal enemies to the English Pale. So as in all the said circuit, containing

half the realm, which, with small charges, will be brought to civil obedience; and if all the countries were made counties, that the law might have its course, then they would prosper, for the sheriffs would put down their Irish laws and elections of captains.

“CONNAUGHT.—Between Thomond and Galway lies Clanrickard, a plain open country, which was governed by M^cWilliam, who was created afterwards Earl of Clanrickard, and during whose time the country was in good stay and quiet. After his death, as his son Richard was but young, and the country doubted whether he was *mulier* born or a bastard, Sir Ulick Burke was appointed captain during his nonage. When he came to his full age he began to be at war with the said captain, and between them both the country was all wasted. Being sent with a small company to see them ordered, within one fortnight, having put certain gentlemen to execution for their offences by terror thereof, and by other means, I left the country, and I placed the earl quietly, and made every one of the country willing to answer and obey him, and took orders betwixt them for their contentions to the parties' contentation, and left two ploughs manuring the land where at my going thither there were not past forty ploughs in all the country, but all waste through war, which ploughing increaseth daily, thanks be to God! whereby the country is universally inhabited, and so brought to quiet that now the people leave their ploughs, irons, and cattle in the fields without fear of stealing. Experience showeth that there can be nothing so good to be used with such savage people as good order to be observed and kept amongst them, for execution of the law is more feared when it is done in order than any other punishment.

“Mac William Bourke [of Mayo], second captain of most power in Connaught, is of honest conformity, and doth hinder none of the King's Majesty's subjects, and is ready to join with the Earl of Clanricarde, and every other captain to serve the King's Majesty in every place in Connaught; and if a president, or yet a captain, with a competent number of men, continuing at Athenry or at Galway, will cause all that country to be true subjects; and those two, with a captain, will be able to rule all Connaught, which is the fifth part of Ireland.

“There is in Connaught, besides O'Connour Slyggaghe [Sligo], O'Connour Doyne [O'Connor Don], O'Connour Roo, and McDermott, men of no great power. The same Slyggaghe country belongs to the king, and it is the best haven town in all the country; and the same O'Connour and certain his predecessors keep the same by usurpation, and the one of themselves continually warreth against the other. O'Connour

Doyne and O'Connour Roo did strive about Rossecamman, a fair manor of the King's Majesty [yea, one of the fairest in all Ireland, lying in the plains of Connaught]; and in their contention this Earl of Clanricarde got the house off their hands, and kept ward in the same by a policy. And now of late upon my repair to Athlone for certain conclusions there, the same earl resorted to me, and condescended to deliver the same castle to my Lord Deputy, to be kept to the king's use, and he to be considered otherwise, so as between that house and Athlone, being but twelve miles asunder, all their countries would be made obedient. O'Rourke's country is but fourteen miles from Roscommon. O'Donnell's country is not passing nine miles from it, and Sliggaghe is but fourteen miles from it; so as, thanks be to God, all those countries be now quiet; but when one of themselves make warre upon another, and so between Athlone, Roscommon, and the Earl of Clanricarde, all the rest of course must be obedient with small charges.

"Between Athlone and Clanricarde is O'Keally's country. O'Kelly is a captain of great power of horsemen, gallowglasse and kerne [heavy-armed and light-armed foot-soldiers] and no men in Ireland of wilder nature than they are, and many times, in times of warre, they have done much harm to the English Pale. And now lately my Lord Deputy, being at Athlone, I attended upon his lordship, at which time O'Kelly, by persuasion, was content to hear and yield to the house of Athlone, as other English in the Pale did.

"O'Connour Roo aforesaid, upon eight days before my arrival there, was plundered by McDermod of 4000 kyne and 500 stud mares; and perceiving the obedience of O'Kelly and the orders which was taken between him and others, he [O'Connor Roo] came to me to complain to Athlone; whereupon, to prove their obedience, I concluded with the Earl of Clanricarde and divers other captains and gentlemen who then were with me, that unless he would make restitution upon my letters, they should meet together the Sunday after May-day with 300 horsemen, 400 gallowglas, and 800 kerne, with seven days' victuals, to punish the same McDermod, and to see the poor men restored, whereupon all they condescended; and after the same conclusion I determined with them that they should in no wise get forward till they should hear from my Lord Deputy and have his consent; so as it is good obedience that gentlemen in such countries would be so willing to punish such offences upon a sudden, without putting his Majesty to charge, whereby it appeareth that if there be a president amongst them to see them kept in good order, their country would be brought to good quiet.

"Between Athlone and Offaly are the countries of O'Bryenne,

McCoghlan, the Fox, O'Molmoy, and McGoghecan—very strong countries for woods, moors, and bogs, by means whereof much cattle are stolen out of the English Pale; all of them condescended to cut passes in their fastnesses. I sent for the same Irish captains to answer complaints; and for as many thereof as were duly proved, I caused the sheriff of Westmeath, with ten horsemen, to destrain the value of all the goods stolen. I caused them, within four days, to restore to the poor people £300, and besides to pay as much more to the king as a fine. Before this time no Irishman was to pay more than to restore the goods stolen, and for that the countries be no shire lands, no thief can be punished by the law. The sheriff, with a few men, will be so regarded as to put such order in execution, in those strong countries, which, within seven years, 800 men, nor yet 1000, were not able to bring to pass in any of these places.

“Between the Shannon and O'Raylie's country [now the eastern portion of the county Cavan], is the Annalè [now the county Longford], a strong country where the Farrells dwell, men of good obedience, who pay yearly to the king 100 marks rent, and find 240 gallowglass for the quarter of the year after the rate of four pence sterling the spear by the day. Lately, in the absence of my Lord Deputy, I being there for the settlement of their contentions, they obeyed my letters.

“Next to the Analce is a large country, well inhabited, called the Breany [Breany or Breffny, comprehended in what is now known as the whole of the county Leitrim, and part of the county Cavan], wherein O'Raile is chief captain, who has seven sous. He and they make 400 horsemen, all of the same name, and 1000 kerne, and 200 gallowglass. The country is divided between them, which joineth to the English Pale, upon a country called Plunkett's country, betwixt which country there hath been divers murders, stealths and robberies, by night and day committed. On the complaint of the inhabitants of both parties, in the absence of my Lord Deputy, I repaired to these borders, O'Reily was accompanied by 400 horsemen; and 300 footmen, whilst I had not more than 100 horsemen, and as many footmen. I required him to come to me with a few horsemen, and accordingly he did. I commanded him to deliver such pledge into my hands as I would name; and though he was loth so to do, yet at length he condescended. Upon receipt of his pledge, I made proclamation that every complainant, at a certain day, should meet to receive his due. On the next day of meeting I caused him to restore as much goods as were stolen and taken from the English Pale in six years before, which came to £400. I also caused him to pay £200 as a fine to them for maintenance of such stealth. The like hath not been that a man of such power as he is of would

redeliver without greater circumstances; whereby it appeareth that the poor simple people be as soon brought to good as to evil, if they were taught; for hard it is for such men to know their duties to God and to the king, when they shall not hear preaching or teaching throughout all the year to instruct them in their duty. [Many of the monasteries were suppressed in this part of the country at the time.]

“If the countries of Leix [afterwards constituted a county by Queen Mary, with the appellation of Queen’s County], and Offaly [King’s County] were made shireland, that men might have estates of inheritance there, by copyhold or fee-farm, and both the forts were made market towns [the fort of Daingean was afterwards called Philipstown, and that of Campa called Maryborough]; and if other former devices were put in execution, the king’s profit would much increase, the countries would be well inhabited and manured, and his grace’s charges would be diminished. Such manurance will bring good cheap corn and cattle, and the English Pale will be thereby discharged of exceeding yearly charges, for now there lieth between the forts 600 or 700 soldiers, daily in effect, and can do service out of the same countries which standeth the king’s majesty [Edw. VI.] as though they were extraordinary, assuring your grace that the countries be now greatly charged with the finding of them; for the countries supply the soldiers with the peck of wheat for five shillings, which is sold in the market for twenty shillings; they also give them the beef for twelve shillings, which is sold in the market for £4, yet the country do not grudge or gainsay the same, but, like obedient subjects, pay the same without exclamation, which, by alteration of the forts, would be redressed, and a great yearly saving to his majesty.

“Next to the Breany is M’Mahon’s country, called Orryell [now the counties of Louth, Monaghan, and Armagh], wherein lieth three captains, the one in Dartarie [near Clones], and other and M’Mahone in Loghtye, of which three countries M’Mahone is chieftain—these countries, both large, fast, and strong, among whom there were continuous intestine wars formerly, whereby the most part of the country was made waste. Nevertheless, they be tall men, to the number of 80 horsemen, 200 kerne, and 120 gallowglass, and all of these for the most part do follow husbandry, except the kerne, and yet some of them occupy likewise. [By the following it would appear that the Chancellor was pushing the authority of the king’s courts into Ulster, as well as in the southern countries.] “Of late, before Easter, by appointment of my Lord Deputy, I resorted to them to see the countries’ order. They all assembled before me, and I caused them to find, at their own charge, 120 gallowglass yearly, to serve the king, and to attend upon the English

captain of the English Pale, who has the order of the country committed to him for the keeping of the king's peace. I also caused them to put their pledges into my hands for the finding of the gallowglass, and for the due performance of the orders, which I took between them. This was done without force or rigour. Besides this, they pay for all cesses to the soldiers of Monaghan, and in other places beeves and carriages, like as others in the English Pale do.

"The next country between that [Orryell] and MacGynnose's country, called Iveaghe [county Down] is O'Hanlon's country, called Orrer. The same O'Hanlon is an honest man, and he and his country are ready to obey all commandments. The next to O'Hanlon is McGinnesses' country aforesaid, where, in the Nivorye, Mr. Marshal's farm is situated. The same M'Ginness is a civil gentleman, and useth as good order and fashion in his house as any man in his vocation in Ireland, and doeth the same English like. His country is obedient to all cesses and orders. The same Iveagh hath been parcel of the country of Downe, and he being made sheriff thereof, hath exercised his office there as well as any other sheriffs doth.

"The next to that country is M'Cartan's country, a man of small power, wherein are no horsemen, but kerne, which country is full of bogs, and beareth the captain of Lecaill. The next to that country is the Doufrey, whereof one John White was landlord, who was deceitfully murdered by McKanyl Boy's son, a Scot.

"The next country to the same is Lecaill [country about Downpatrick], where Mr. Brereton is farmer and captain, which is a handsome plain and champion country, ten miles long and five broad, without any good wood growing there. The sea doth ebb and flow round about that country, so as in full water no man can enter in upon dry land but in one way, which is less than two miles in length. The same country for English freeholders and good inheritance is as civil as few places in the English Pale.

"The next country to that and the water of Strangford is Arde Savage's country.

"The next country to Arde is Clanneboy [south portion of the County Antrim], wherein is one Moriarthagh Dulenaghe, one of the Neyles; but he is not able to maintain himself. He hath eight tall gentlemen to his sons, and they cannot make past twenty-four horsemen. There is another sept in that country of Phelim Backagh's sons, tall men, who take part with Hugh McNeil Oge. The same Hugh McNeil was plundered by Mr. Marshal. McNeil sought to have the matter heard by my Lord Deputy and counsel, and a day was named in May; and now lately I repaired to his country to talk further with him, to de-

lay the time till the grain grow, for before then the country is barren of victuals."

The Chancellor next describes the country of Claneboy. He speaks of the castles of Reough and Bealfarst, of the country of the Glynnnes, of O'Cahan's country on the Bann, of the country of Tyrone, "where the Earl of Tyrone hath rule," of Armagh, of "O'Donnell's country, named Tyreconnell." He then approves of the policy of the government in sending to England the Earls of Desmond, Thomond, Clanrickarde, Tyrone, and others, which sending immediately followed the invitation issued to them by the king to confer upon them their titles of honour. He then suggests the appointment of presidents of the provinces of Ulster, Munster, and Connaught, and the division of the whole country into counties, which involved the appointment of sheriffs to execute the king's writs. He next informs the Duke of Northumberland that "many hold to the opinion that the realme of Ireland should remain under the government of the lords of the same," as in times past, while others are of opinion "that it were good with the sword to destroy all the inhabitants of that country."

Having thus given the Lord Chancellor's observations on Ireland in his time, let us return to the subject-matter of our narrative.

On the death of Edward VI., in 1553, one of the first acts of Queen Mary was to direct that Sir Thomas Cusack should be continued in the office of Chancellor. She next ordered the cathedral of St. Patrick's to be restored to the service of the ancient faith; and accordingly it was done. The ex-monk George Browne was then expelled from the Sec of Dublin, which was declared vacant, and Hugh Curwen was presented thereto by the Pope; for the Queen, though styled by the lords of the council "Supreme Head of the Churches of England and Ireland," entirely repudiated all claim to any such title, as appears by the 8th section of the 3rd & 4th Philip and Mary, chapter viii. (Irish), which contains the following recital:—"Whereas your Highness, Sovereign Ladye, since your coming to the Crowne of these realmes of England and Ireland, of a good and Christian conscience, omitted to write the said style of supremacie." On the 13th of September, 1554, their Majesties addressed the following letter to Sir Thomas Cusack:—

"The King and Queen to the Lord Chancellor:—Whereas we have received from our Holy Father the Pope a Bull, herein enclosed, by which you shall clearly understand that his Holiness, upon our recommendation, hath preferred unto the Archbishopric of Dublin our trusty and well-beloved chaplain, Hugh Curwen; whereupon he hath done unto us his homage and fealty. We therefore will and command you, that under our

Great Seal you make out such and as many writs as shall be requisite and necessary for the restitution of the temporalities of the archbishopric to our said chaplain accordingly.”¹

This was the last communication Sir Thomas had with the government in his capacity of Chancellor. On the same day the new Archbishop of Dublin was appointed Lord Chancellor of Ireland. In the succeeding reign Sir Thomas was continued in the rank of Privy Councillor, and afterwards, in 1563, was associated with Gerald, Earl of Kildare, on a royal commission to treat with O’Neil, Earl of Tyrone, and to frame articles of peace between that haughty chieftain and Queen Elizabeth. He was also commissioned to settle the disputes which had long existed between the Earls of Desmond and Ormond. During the remainder of his life Cusack continued firm in his adhesion to the Protestant religion, and in this he appears to have been an exception to the lawyers of that day, who as a body were unanimous in their opposition to the Reformation. “Sir Thomas Cusack,” writes Dr. Brady, Protestant Bishop of Meath, “is the only man in his profession that favours religion. All the lawyers are thwarters of the Reformation.” Sir Thomas died on the 1st of April, 1571, and was interred in the parish church of Tryvit, in the county of Meath. He had been three times married: first to Jane Hussey, daughter to John Hussey, baron of Galtrim; secondly, to Mathilda, daughter of George Darcy of Platten; and thirdly, to Janette Sarsfield of Lucan. From him are descended the Cusacks of Cushington, in the county of Meath.

84. **A. D. 1555.**—**HUGH CURWEN**, Archbishop of Dublin, was a native of Westmoreland, and claimed descent from the Percys, Earls of Northumberland; his ancestors, however, residing in the district of Corren in Galloway, adopted as their own the name of the place, which, in the course of time, was afterwards changed to Curwen. In early life he was remarkable for his piety and zeal, and having taken holy orders, obtained, soon after his entering on the mission, the appointment of Dean of Hereford and chaplain to their majesties, Philip and Mary. He was next consecrated Archbishop of Dublin, according to the Roman Pontifical, in St. Paul’s Cathedral. On the 13th of September, 1555, he was raised to the Chancellorship of Ireland, and on his arrival in Dublin was sworn into office, the form of oath having been altered from that used in the preceding reign. It is as follows:—

“Ye shall swear that you shall be a faithful and true councillor to our most dear Sovereign Lord the King, and our most dear Sovereign Lady the Queen’s Majesty, their heirs and successors, kings of England, France, and Ireland, and shall faith-

¹ Morrin, “Pat. Rot.,” *temp. Mary*, p. 339.

fully, truly, and uprightly demeane yourselfe in the room of Lord Chancellor of the realme of Irelande, as well towards their Majesties, their heirs, and successors, as towards their Highness's subjects, and all others that shall have to do before you. You shall maintain, execute, and keep the laws, ordinances, and rights, of our mother the Holy Church, in all their points and articles, and the law ordinances, and most godly statutes of the realme agreeable and consonant to the same—you shall administer justice indifferently to all persons, refusing no man thereof—you shall also do all other things that appertain to the office of Lord Chancellor and counsellor, to the uppermost of your power—so help you God, all the saints in heaven, and by this book.”¹

On the 25th of the same month, the queen wrote to the dean and chapter of Christ Church, to receive Dr. Curwen with due respect, announcing that he was preparing “to reside on the cure of his bishopric, which now of long time hath been destitute of a Catholic bishop, as also to occupy the office of our High Chancellor of that realme.” Immediately after his elevation he resigned the Deanery of Hereford, but in a month resumed it, and held it on until the year 1558. A letter is still extant in which the following allusion is made to his first sermon:—“The Archbishop of Dublin did preach his first sermon that he made in this land in Christ Church, and did set forth the word of God sincerely in his sermon, and after such a sort, that those men, both the learned and unlearned, do give him as high praise as I have heard given to any one man.” In the same year he held a provincial Synod, in which many constitutions were made concerning the ceremonies of divine worship.

On the 28th of April, 1556, the king and queen sent written instructions to Lord Fitz-Walter, Earl of Sussex, who was then about to enter on his duties of Lord Deputy, and also to Dowdall, Archbishop of Armagh, and Hugh Curwen, Archbishop of Dublin, and others of the Privy Council, directing them “to bring about by their own good example, and all other good means, the restoration of the Catholic religion, now, by God's goodness and special grace, recovered in our realme of England and Ireland; and they shall set forth the honour and dignity of the Pope's Holiness and See Apostolic of Rome, and from time to time be ready with our aid and secular force, at the request of all spiritual ministers and ordinaries, then to punish and repress all heretics and Lollards, and their damnable sects and opinions and errors.” They also informed them, that Reginald Pole, Archbishop of Canterbury, had been sent as papal legate to England, to effect the reconciliation of that country to the Church, and that his eminence was about despatching commissioners to Ireland for a like purpose, and they called upon

¹ Morrin, “Pat. Rot.,” p. 340.

the deputy and council to assist them in that behalf by every means in their power; they directed that the deputy is also to have regard to the administration of justice, and that the laws be executed, the lack whereof has caused grievous complaints and many mischiefs, and they complained that although the fees of the ministers of the law were more and more increased, there was a great lack in the administration of justice. The deputy should declare to the judge of the bench and Common Pleas, that their majesties were "not ignorant of the ill-husbandry in times passed used in those courts, which," they trusted, "should from thenceforth be amended." A similar rebuke was administered to the Barons of the Exchequer, and with these and other instructions the Earl of Sussex took his departure for Ireland, where he arrived on Whit Sunday, the 24th of May, 1556, and on the following Tuesday was sworn into office in Christ Church.

The interesting ceremonial of resigning the sword of state by the outgoing, and the acceptance thereof by the incoming deputy, before the Lord Chancellor and the pursuivant-at-arms, is thus quaintly described in the "Carew Manuscripts," p. 258:—"On Tuesday Sir Anthony St. Leger came to Dublin, and then to Christ Church, not permitting any of the gentlemen to precede him, or the sword to be borne before him. He went till he came to the chapel on the left hand of the altar in Christ Church, and there devoutly kneeled until the service was done, the Lord Fitz-Walters kneeling somewhat distant from him. The services being ended, the Lord Deputy [Sir Anthony St. Leger] proceeded forth, Sir George Stanley [Knight Marshal] bearing the sword before him, and after this business, humbly bowing unto the altar, sat down. The Lord Walter's patent was then delivered to John Parker [Master of the Rolls], who read it, Sir Anthony kneeling before the altar, who, after his thanks given unto Almighty God, rose up, set Lord Walters in his place, took the sword from Sir George Stanley, and, upon his knees, surrendered it to Lord Fitz-Walters. Then Hugh Curwen, Archbishop of Dublin, Lord Chancellor of Ireland, read the oath of Lord Fitz-Walters, and the pursuivant-at-arms held the mass-book, whereon he took his oath. That done, the trumpets sounded and the drums beat, and then the Lord Deputy kneeled down before the altar until the *Te Deum* was ended."

The manuscript then proceeds to detail the reception of the Lord Deputy at both the cathedrals by Archbishop Curwen. On the next day, "Wednesday, the Lord Deputy came to Christ Church, nobly accompanied, and, under a canopy at the church door, was received by the Archbishop of Dublin, with the clergy kneeling. There he was censed, and after kissed the cross, being blessed by the Archbishop. He then proceeded to the high

altar, where he kneeled till the *Te Deum* was sung, and being censed and blessed, and service done, he rose up from his place and proceeded to the altar, where he kneeled a certain space, and offered a piece of gold. Then he departed to his lodgings.

"On Thursday the Lord Deputy came to the church of St. Patrick's and there, after the form aforesaid, was received by the said Archbishop, being Lord Chancellor, and there offered, and dined with him that day."

Immediately on the conclusion of those proceedings a parliament was summoned, and an Act passed for the reconciliation of the kingdom with the Apostlic See. The ease with which the sovereigns of those days prevailed on their parliaments to pass such laws relating to religion as suited their passing fancies appears to our generation wholly unaccountable. In 1537 the legislative assembly abolished the Catholic religion, and stamped its holiest rites as "divilish abuses," and the authority of the Pope as usurped, and yet a score of years had not gone over until the Irish Parliament restored that Church, which they afterwards overturned at the beck of Queen Elizabeth. If anything can deepen the astonishment one feels at such vacillating conduct, it is this, that the Lord Chancellor was adviser of the Crown, and Speaker of the House of Lords, at the passing of the Acts both of Mary and Elizabeth.

Disturbances were at this time widespread, and the Irish people appear to have been as hostile to English rule under the Catholic king and queen as they had previously been under the Protestant kings Henry VIII. and Edward VI. The dangers of travelling, too, in the Irish districts, between Galway and Dublin, were so great that they deserve to be recorded, and might well provoke the doubts of the incredulous in our own times, if they were not so well authenticated. Thus Cristopher Bodkin, Archbishop of Tuam, the Earl of Clanricade, and others, were bound in their recognisances of £1200, to appear before the Lord Chancellor of Ireland in Dublin, on the morning of Ascension-day, 1556; and not having attended, they incurred the risk of the forfeiture of their bonds; but they alleged in defence the impossibility of the performance of the condition, owing to "the feare they had of the waies, and doubting much if they should have travelled through Irishmen's countries without companie, that they should have been taken and spoyled," and this defence was deemed sufficient to save the forfeiture.

On the 4th December, 1556, a commission was issued to Archbishop Curwen and others, empowering them to inquire concerning the chalices, crosses, ornaments, bells, and other property which had lately belonged to the parish churches and chapels in the diocese of Dublin, and the sales made thereof to any person, or persons, the price, in whose hands they then re-

mained, and also in whose possession were the houses, lands, and tenements belonging to their churches; and to cause an inquisition to be thereof made and returned into Chancery without delay. Similar commissions were at the same time issued to all the bishops in Ireland, doubtless with the view of restoring their property to the parish churches. Widely different was their Majesties' policy with respect to the monasteries, which by the sanction of the legate were not restored to the religious orders. The Patent Rolls are loaded with grants, made by Queen Mary, of the abbeys, priories, commanderies, nunneries, and lesser houses, to lay grantees. In the statute, however, re-establishing the Catholic Church in this kingdom, it was permitted that lands might be given or devised to spiritual bodies without the license of mortmain. On the 9th of November, 1557, the Lord Chancellor and Sir Henry Sidney were appointed Lords Justices during the temporary absence of the Earl of Sussex, who was then viceroy, and who had been summoned to Greenwich, to take the queen's commands with respect to the future government of the country. Having remained in England for several weeks, he returned to Dublin, and resumed office. He made several journeys throughout the country, which are well told in the "Carew Manuscripts." On the 10th July he arrived in Limerick, where, after high mass, the Earl of Thomond swore to forsake the name O'Brien, and to use the name and style of the Earl of Thomond. On Tuesday, 12th of July, he pushed on towards Galway, and remained that night at Gort, where "he dined so worshipfully that divers wondered at it."

On the accession of Queen Elizabeth in 1558, the government of Ireland continued in the hands of the earl, who was speedily summoned to her Majesty's presence. On the 4th December he "took his departure from Kilmainham, with my lady, his wife, to Howth, where that night he took shipping for England; and on the following day, Hugh Curwen, Archbishop of Dublin and Lord Chancellor of Ireland, and Sir Henry Sidney, "were sworn in as Lords Justices in Christ Church." Dr. Curwen, now that a Protestant occupied the throne, immediately accommodated his faith to that of the reigning sovereign. He was permitted, therefore, to retain his see, and continue in the office of Chancellor, and, as a further reward for his elasticity of conscience, was nominated to the privy council. On the 25th May, 1559, he caused the pictures that adorned the walls of Christ Church and of St. Patrick's to be whitewashed, so completely had he accommodated himself to the religious principles of the Reformation.

Archbishop Curwen was one of the spiritual peers who sat in the parliament assembled in January, 1560, by which was passed

the Act abolishing the power of the Pope in Ireland. This was the parliament that had four years previously restored the papal power! The Act was nominally passed for all Ireland; but was of little consequence to "the Irishry" outside the Pale, where, indeed, the English laws were then but little respected. How little respected appears from the following report made by the Earl of Sussex in 1652: "The people are governed either by English laws or the Brehon law, which is a corrupt kind of civil law; or by Irish customs, grounded upon the will of the lord, that is to say, the English people by English laws, except where the great lords, to maintain their extortion, use the other; and the Irish people by the Brehon laws and customs. The Brehon law doth admit the eldest of every nation to be by election captain of his nation, which, by custom, hath of late been so abused; as for the most part, the strongest of every nation is chosen to be captain, which kind of election causeth great numbers of men-of-war to be maintained, who bring in quoiny, and livery, and all other kinds of exactions. And although the English people ought not to use such election, yet the same is in many places used."

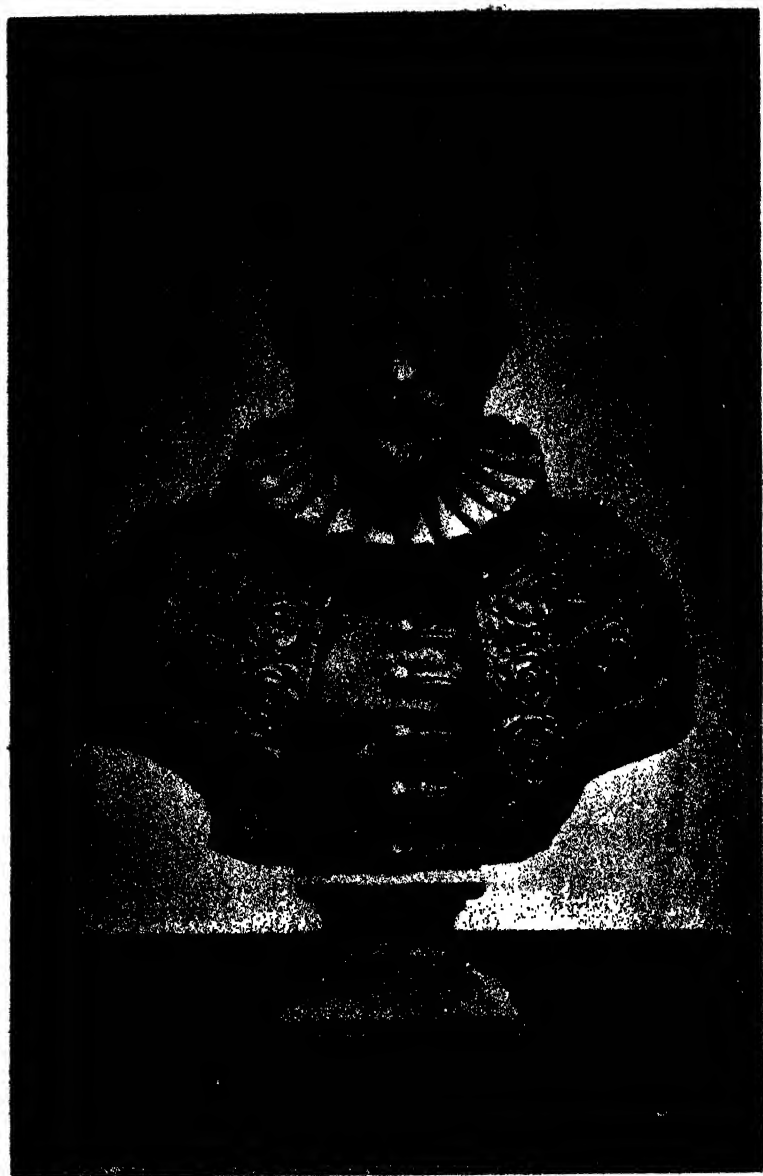
To effect a thorough change, to substitute the laws, the language, and the religion of England, had become the policy of the state. A great national university was supposed to be one of the fittest means for compassing this end, and the cathedral of St. Patrick's, it was suggested, should be suppressed, that from its ruins might spring the new institution. The most reverend Chancellor, however, unable to brook the idea that one of his cathedral churches, with all its worldly advantages, should be thus filched from his grasp, wrote a letter, which is still in existence, to the Earl of Sussex, deprecating the proposed change. His protest had the desired effect, and the affair was at an end.

Old age had now come upon the Chancellor-Archbishop, and with it dishonour—he was a disgrace alike to the faith he had abandoned and the faith he had adopted. It seemed as if, in the sunset of life, his virtues were turned into vices—vices which so shocked the feelings of Loftus, the Protestant Archbishop of Armagh, that he besought of Parker, Archbishop of Canterbury, to aid him in obtaining his removal from the See of Dublin. Queen Elizabeth, seeing how deeply the presence of such a prelate must compromise those religious principles which she had inherited from her father, Henry VIII., offered Curwen a pension to retire from his see and from the Court of Chancery. The offer was rejected, but a vacancy soon after occurring in England, by reason of the death of the Bishop of Oxford, Doctor Curwen was translated thither, and having spent one year in that diocese, he died at Swinbroch, near

•

!

,



Burford, in the parish church, in which he was buried on the 1st of November, 1568.

85. A. D. 1567.—ROBERT WESTON, LL. D., Dean of the Arches, Fellow and Professor of the College of All Souls, Oxford.

On the borders of the great forest of Gouffern, near Argentan in Normandy, the moat and remains of the chateau or castle of Bailleul may still be traced. In this stronghold, centuries ago, and long before the time of William the Norman, ruled the seigneurs of lands that extended for many a mile around. Those seigneurs, after the custom of the times, were known by the name of their castle as the lords de Bailleul. One of these lords, Raynold de Bailleul, accompanied the conqueror to England, and married Aimeria de Montgomery, niece of Roger de Montgomery, one of the greatest barons in the conqueror's train. The "cross and the mullets" of the Montgomeries were in the next generation well known to the Soldiers of the Cross, at the first capture of Jerusalem. Raynold's powers won for him the manors of Weston-under-Lyzard, and Burton, and Broton, and Newton, in the county of Stafford. He was succeeded in those manorial estates by his son Hugo de Bailleul, whose son Ralph de Bailleul enjoyed the possession of them in the reign of Stephen. This Ralph had a son, sir Hamo de Bailleul, who in the reign of Henry II. adopted the name of the principal manor of his English estates, just as his Norman ancestor had assumed the name of the castle in which he lived, and ruled in the fertile fields of France. Their Norman territories had doubtless at this time passed into other hands. Thenceforth, after the custom of that day, the De Bailleuls are known in story as the lords of Weston-under-Lyzard. At first they bore the Norman prefix, as De Weston, but in the course of ages, dropping the "De," they became what they now are called, Westons.

The estate of Weston-under-Lyzard was handed down from father to son, until, in the reign of Edward II., it came into the hands of Sir John de Weston, who was twice married, and whose grandson by his first wife having died without issue, an heiress conveyed the property into the family by whom it is still possessed—that of the Earls of Bradford, whose principal residence is Weston Hall. This John, by his second wife, Igalda, was father of Robert de Weston of Beterton, whose grandson Richard was denominated of Rugeley in the county of Stafford. The grandson of this Richard, John Weston, had several sons, of whom the eldest continued the line of the Rugeley until nearly the middle of this century, while a younger son, John Weston of Lichfield, married Cecilia, daughter of Lord Neville,

and sister of the Earl of Westmoreland. The descent of this lady from the fair maid of Kent entitles her descendants to boast that they inherit, through her, the blood of the Plantagenets. There were several children of this marriage, amongst whom two reached to eminence—Richard, a judge of the Common Pleas in England, who died in the year 1572; and Robert Weston, of Weeford, Lord High Chancellor of Ireland, the subject of this memoir. Perhaps before we treat further of his life, we should mention, that several other members of this family have sat on the English benches, and that their lives are to be found in Fosse's *Judges of England*.

The great abilities of Robert soon brought him under the notice of Queen Elizabeth, who after the passing of the Act of Uniformity appointed him commissioner for administering the required oaths to ecclesiastics. He was also consulted on the propriety of the Queen's commission, granted on the 6th of December, 1559, for the confirmation of Mathew Parker Archbishop of Canterbury, of whose court he was immediately appointed judge, with the title of Dean of the Arches. The Court of the Arches was a court of appeal belonging to the Archbishop of Canterbury, and was anciently held in the Church of St. Mary le Bow (sancta Maria de arcubus), whence the name. The Judge of this court determined appeals from the sentences of all the ecclesiastical courts within the province of Canterbury, and from him, before the change of religion in England, the appeal lay to the Pope; but when Henry VIII. had constituted himself head of the Church of England, the appeal was thenceforward to the king in Chancery.

In 1564 disputes having arisen between the subjects of the king of Spain and those of the Queen of England, commissioners, amongst whom Weston was one, were appointed to consider the several matters in controversy, and it was in great part owing to his sagacity and prudence that many of the difficulties were smoothed, and that a peaceful solution was at length arrived at. On the removal of Curwen from the Court of Chancery, Weston was appointed to succeed him, and was allowed, in addition to the salary and fees attached to the office, the emoluments of the deanery of St. Patrick's. Queen Elizabeth thus alludes to the subject when writing to the Lord Deputy:—"We are pleased for some increase of his livinge, whilst he (Dr. Weston) remaineth in our service there, to give unto hym the deanery of St. Patrick's, whereof the Archebusshoppe of Ardmaghe (Dr. Loftus) is now deane, and yet is to leave it at our order, as wee know he will—and therefore wee will that you move the said Archebusshoppe to surrender the same, and thereupon cause Dr. Weston, our Chancellor, to be fully admitted, under such forme as other deans of that place have heretofore obtained and held the

same, nevertheless for that our especiall meaningc is that he shall yield over that deanery againe unto our disposicioin, whensoever he shall leave the office to our Chancellor—you shall, before his acceptation thereof, take bonds of hym to our use in such summe as shall be fit for such a case, that he shall duly accomplish our intent and pleasure, for the surrender of it in forme aforesaid."

It would appear that the emoluments of the office of Chancellor were about this time £500 a-year; and this was deemed insufficient without some other auxiliary appointment. "Whosoever shall be Chancellor here," writes the Lord Deputy to Cecil, Secretary of State, "and have no other living here but £500 yearly for his office, shall either live here like a miser, or come home a beggarman, as I am like to do." On the 8th of August, 1567, Weston was sworn into office—and in that office he gave the most unqualified satisfaction, "for he was," writes Hooker, "a notable and singular man—by profession a lawyer, but in life a divine—a man so bent to the execution of justice, and so severe therein, that by no means would he be seduced or averted from the same, and so much good in the end ensued by his upright, diligent, and dutiful service, as that the whole realme found themselves most happy, and blessed to have him serve amongst them." He had not long been Chancellor when he was appointed Lord Justice, during the temporary absence of the Lord Deputy in England.

In 1568 Sir Henry Sidney returned to his post, and immediately called a parliament, which was opened with great ceremony. On the lords being seated, the Lord Chancellor addressed them, "declaring what law was, the great effect and value thereof, and how the common society of men was thereby maintained." After this preface he pointed out the vigilant care exercised by her Majesty over the welfare of her subjects, and informed them "that she had caused the present parliament to be assembled, that by their advice such good laws might be decreed as would tend to the honour of God, the preservation of Her Majesty's person and crown, and safety of the commonwealth." He then addressed himself to the knights and burgesses, members of the lower house, "whom for the avoiding of confusion he desired to assemble in an house appointed for themselves, and there to make choice of some wise and sufficient man to be their speaker;" he then closed his speech with an exhortation to obedience and dutifulness; after which the house adjourned till Thursday the 20th of January.

The Lord Chancellor, then taking his seat, presided in this parliament, the first Act of the third session of which was passed for the attainder of Shane O'Neil. By the second section, it was enacted that the use of the name of O'Neil was thenceforward

illegal. For that "name doth carry in itself so great a sovereignty, that all the lords and people of Ulster should rather live in servitude to that name than in subjection to the Crown of England."

The Deanery of St. Patrick's was not the only ecclesiastical living with which Weston was rewarded. He was granted also in England the deanery of Wells with its emoluments. The Lord Deputy, Sir Henry Sidney, had about this time succeeded in capturing the rebellious sons of the Earl of Clanricarde and the more rebellious Earl of Desmond, and having put great numbers to death, returned to Dublin, when he sought and obtained permission to explain and account for his cruelties in the south to the Queen in person. He accordingly proceeded to England in the month of October, 1567, leaving the Government of the country in the hands of the Lord Chancellor and Lord Treasurer, who remained in office as Lords Justices during the ensuing eleven months. For six years Weston held the seals of the Court of Chancery, and died on the 23rd of May, 1573. His death, which occurred at a time when the whole country was plunged in ceaseless turmoil, is thus noticed in the chronicles of Hooker, a contemporary writer: "Besides those universal troubles, it pleased God to call out of this miserable life Dr. Weston, Lord Chancellor, a man in his lifetime most godlie, upright, and vertuous, and such a one, as that place was not possessed of the like for many currentes of yeares; in his life most vertuous and godlie, in matters of council most sound and perfect; in justice most upright and uncorrupted; his hospitalities were bounteous, and liberal, and his manners and conversation most courteous and gentle." He was buried under the communion table, in his cathedral. At his death he left one son, who died in 1632, and a daughter, Alice, who was married first to Dr. Brady, Protestant Bishop of Meath, and secondly to Sir Geoffry Fenton, Secretary of State, whose only daughter, Eatham, was married to Richard, first Earl of Cork.

Within a month from his death a memorial was presented to the queen by the privy council for a grant from the public purse on behalf of his widow, "who hath borne herself as commendably as beseemed the wife of so good a man." Amongst the monuments of St. Patrick's Cathedral, the most conspicuous is that erected in 1631, to the memory of Richard Boyle, Earl of Cork, and other individuals of his family, of whom there are no less than sixteen figures in native marble. On the upper stage, and in a recumbent position, and arrayed in his Chancellor's robes, is the figure of Weston, while on two slabs of black marble placed under his effigy is the following inscription:—"Here lyeth interred, the body of that reverend honourable gentleman, Robert Weston, Esq., Doctor of Civil and Canon laws, grand-

father of the ladie Catharine Countess of Corke, being sometime one of the Lords Justices of Ireland, and for six years Chancellor of the realm, who was so learned, judicious, and upright in the course of judicature, as in all the time of that employment he never made an order or decree that was reversed. He changed his mortal for an eternal life on the 20th of May, 1573, whose honourable memory no time shall extinguish."

Richard Weston, brother of the Chancellor, was no less an ornament of the English than Robert was of the Irish bench; his grandson, another Richard, knight of the garter, was created first Earl of Portland, and Lord High Treasurer of England, and so much beloved by Charles I., that he commanded the Court to go into mourning on his decease in 1634. We believe that we are correct in our conclusion that the Westons of Lane House, in the county of Dorset, are now the sole representatives of Robert Weston, Lord High Chancellor of Ireland.

86. A.D. 1576.—WILLIAM GERRARD. Immediately on the death of Lord Chancellor Weston, the Great Seal was put in commission, Adam Loftus, Protestant Archbishop of Dublin, being Lord Keeper, for which office he had £300 a-year, "though he never sat in court." Intense excitement prevailed about this time amongst her Majesty's subjects within the Pale, owing to the arbitrary exercise of what was at that time claimed to be the royal prerogative—the imposition of taxes without the aid of Parliament. The Lord Deputy, by the sole authority of the privy council, levied a cess on all the subjects of the Crown resident in Ireland. The lords of the Pale insisted that the imposition of a tax without the aid of Parliament was unconstitutional and illegal. The queen, on the contrary, resolved to enforce her prerogative. It was at this time that Gerrard, who had previously been Attorney-General for England, was appointed Lord Chancellor of Ireland, "with the deanery of St. Patrick's annexed," his patent being dated at Gorchambury the 23rd of April, 1576.

Immediately on his arrival, a petition was presented to him, calling his attention to the intolerable burden sought—unconstitutionally as we have said—to be imposed, amounting to a sum of £12 on each ploughland. The Lord Chancellor replied that "the right of imposing taxes was a portion of the royal prerogative, and was exercised by the Crown ever since the reign of Edward III.; that the money was required, but as to the amount, "it should be reduced to five marks to the ploughland." Dissatisfied with this reply, the petitioners appealed to the queen, and instructed counsel, Barnaby Sherlock, who had been Attorney-General under Queen Mary, Netterville, and Burnell, to appear in support of the appeal. When her Majesty heard

what those lawyers had to offer, the blood of Henry VIII. rose in his daughter's veins: she rejected the petition, and instantly committed Sherlock and his learned companions to gaol. The Lord Deputy desired "that they might be right well punished for their indecent and undutiful speeches." "And this Barnaby Sherlock," he writes to the Queen, "was Attorney-General to your sister, and owed his fortune to Queen Mary." Hollinshead in his "Chronicles," taking the side of the Crown, says, amusingly enough, that "those counsellors being well acquainted with Littleton's *Tenures*, thought themselves so well fraughted in the knowledge of the lawe, as they were able to trade in all matters of the deepest points of the lawes; but if they had first looked into the Booke of God, they would have found it written there that it was God himself who first made kings, and established their thrones . . . that all inferiors and subjects should and ought, in all humblenesse and in dutifulnesse, submit themselves to the obedience of them for their Lord's sake, because it is the will of God, without sifting of his authority or examining his government, for there is no power but of God, and they are ordained of God; wherefore, whoso resisteth them resisteth God. If this be the infallible truth, how far were these men overshot that thus would dispute the prince's prerogative with their Littleton's *Tenures*?"

The Lord Chancellor then made many suggestions (which are still preserved in the Lambeth Library) as to the reformation of the country, which was then, as now, the great problem for English statesmen to solve. Religious animosities had deepened the ancient feuds that existed between the two countries. While in Ireland the people clung with tenacity to the Catholic faith, in England they adopted the principles of the Reformation; and in the middle of the reign of Queen Elizabeth, Protestantism had become the state religion in both countries. But there was this great difference between the two, that in England the "reformed" clergy, in taking possession of their churches, were followed by the people, while in Ireland the ministers, for the most part Englishmen, found themselves alone in sanctuaries which the flocks had deserted to follow their pastors to worship in the caverns or mountain glens.

In 1577 the Lord Chancellor was sent to England to inform Queen Elizabeth of the real state of things in this country; and so pleased was her Majesty with his account of himself and of his conduct in relation to the government, that she granted him a license to export yarn, notwithstanding the statute which prevented its exportation. He then returned to Dublin, and resumed the duties of his office in the Court of Chancery. In 1579 he received the honour of knighthood from the hands of the Lord Deputy, in consideration of his services, and in token

her Majesty's approbation. Next year he was appointed chief commissioner for ecclesiastical causes in Ireland. His health, however, failing, "he obtained licence to go to England as often as he pleased, and to remain there until he should recover." He died at Chester in 1591, and was, it is stated in Mason's *History of St. Patrick's Cathedral*, buried at St. Werburgh's church, in that city. The "Carew Manuscripts" state that "he was one of the most popular Chancellors, and the best beloved man that ever sat in his place."

87. A. D. 1581.—ADAM LOFTUS, Archbishop of Dublin. He was a native of Yorkshire, and was educated in the university of Cambridge. During his undergraduate course he so distinguished himself at a public exhibition in the presence of the Queen, that he won the royal favour, and she graciously encouraged him to proceed with his studies by a promise of early promotion. He was sent to Ireland as chaplain to the Earl of Essex on his appointment to the government of that country. In 1561 he was presented to the rectory of Painstown, in the diocese of Meath, and at the early age of twenty-eight was appointed by the Queen her Archbishop of Armagh, his consecration being performed by Hugh Curwen, Archbishop of Dublin. In 1564 he became Dean of St. Patrick's, and in 1567 Archbishop of Dublin. He then resigned the Deanery of St. Patrick's, for the purpose of allowing Dr. Weston, the newly-appointed though unordained Chancellor, to enjoy the emoluments of that dignity. In 1572 her majesty granted Loftus a dispensation to hold with his archbishopric "other comfortable sinecures," not exceeding £100 a-year in value. On the death of Weston, in 1573, the archbishop was appointed Lord Keeper of the Great Seal—an office which he resigned on Gerard becoming Chancellor; and now that there was again a vacancy in this office, Loftus was selected to fill it. In the following year he was Lord Justice.

The war in Munster at this time assumed a savage character, of which it is impossible to give any adequate idea. Barbarities followed barbarities in quick succession. Conspiracies were said to have been detected; the conspirators were tried, and on the most shadowy evidence were found guilty and hanged on the spot. Amongst others, Nugent, Chief Justice of the Common Pleas, was brought to trial for some imaginary treason, and perished on the scaffold.

It was when Loftus was Lord Justice that a trial by combat worthy of being remembered took place. The facts are these:—"Mac Cormack O'Connor prosecuted Tieg O'Connor for the wilful murder of certain men the servants of the prosecutor. The traverser, Tieg O'Connor, admitted that he had killed them, but justified the act on the ground that they were rebels. The jury found in accordance with the plea. The verdict appearing to

the prosecutor to be altogether against the weight of evidence, he appealed to the privy council, and offered to maintain his appeal by combat. The traverser, by his counsel, accepted the challenge, and the Castle-yard was selected as the place for the appeal to heaven. The Lords Justices, one of whom was the Lord Chancellor, and the judges, arrayed in their judicial robes, were present in the places allotted to them according to their rank, and a vast assemblage filled the whole of the court-yard. Meanwhile the combatants, the appellant and the respondent, were seated on stools at either end of the inner square; and the officers of the court having certified that they had no weapon other than their swords, they took each other by the right hand, and thus addressed the court:—"Hear ye—hear ye this, ye Justices, that I have not upon me any enchantment, sorcery, or witchcraft, whereby the law of God may be abated, and the law of the devil extolled, so help me God, and his saints, and by this Booke." Then, after a flourish of trumpets, the battle began, and it lasted until far in the day, when the appellant made a lunge at the respondent, who, stepping aside, gave a wheel to his sword, swept off the appellant's head, and then reverently presented the same to the Lords Justices. The traverser was then acquitted, and the judgment of the court below affirmed.¹

During the continuance of the Lord Chancellor in the lord justiceship, another and not less remarkable case occurred—the prosecution of Darby O'Hurley, Catholic Archbishop of Cashel, for high treason done in places beyond the seas; the act of treason being, the acceptance by O'Hurley of the appointment to the Archbishopric of Cashel at the hands of the Pope. It appeared that the accused had been resident in a college at Rome, and on his appointment he set out for his destination. He landed at Dundalk, and proceeded thence by a circuitous route towards Cashel, stopping on his way at Slane Castle, the residence of Lord Fleming, a Catholic nobleman, where he continued until the circumstances occurred which led to his tragic end. It happened that Mr. Justice Dillon, one of the judges of the superior courts, arrived at the castle on a visit, and there had an opportunity of observing the information of the disguised archbishop. On every topic that was advanced he spoke, and spoke well. At length the judge arrived at the conclusion that the stranger was none other than a popish prelate in disguise, and he communicated his suspicions to the Lords Justices. A warrant came down in consequence on a charge of alleged "treason in foreign parts," under which he was arrested and kept prisoner in the tower of Dublin Castle during eight months. Meanyhile the Crown lawyers were consulted, and they, having doubts that he could legally be put on his trial for

¹ Whitelaw's *History of Dublin*, and Hooker's *Chronicles*.

a treason alleged to have been committed in places beyond the seas, advised against the prosecution, on the ground that the law did not in this particular stretch as far in Ireland as in England, where an indictment for a like offence would lie. The prosecution in the court of Queen's Bench was then abandoned, but the Lords Justices had no idea of permitting his escape. They resolved to put him to the torture, and thus enforce a confession of guilt. Lord Justice Loftus wrote to the secretary of state in England, "that he had commissioned Mr. Waterhouse and Mr. Secretary Fenton to put O'Hurley to the torture, "as your honour advised us, which was to toast his feet against the fire with hot boots."¹ This expedient was tried, and his feet were stuffed into boots filled with boiling pitch; but the archbishop, nevertheless, could not be coerced into making any admission. He was then in his agony brought to trial by court martial, and found guilty, and was hanged—according to some in St. Stephen's Green; but the truth is, that he was dragged on a hurdle to Oxmantown Green, and that his body, after he had been hanged there, was taken down, and brought to St. Stephen's Green, where it was suspended in chains for many months as a terror to others.

Four days after this miserable event Sir John Perrot resumed, with the title of Lord Deputy, the government of the country; and from the commencement of his conciliatory career, until the close of his life, he found in Loftus a deadly foe. The Chancellor, when Dean of St. Patrick's, had alienated some of the cathedral lands to enrich his own immediate family, thereby permanently impoverishing many of the prebends. The Lord Deputy's proposed plan for converting the cathedral into an university would have detected or interfered with these private designs of the Chancellor, and hence the energy, extending to personal enmity, against the Viceroy, with which he exerted himself to overthrow the new project. The object of the Lord Deputy was not to restore the university formerly established there, but to convert the revenues of the cathedral to the new colleges. His reasons are given in a letter written by him to the Lord Treasurer of England, in which he states:—

"That there being two cathedrals in Dublin: this dedicated to St. Patrick, and the other to the name of Christ. St. Patrick's was held in more superstitious reputation than the other, and therefore ought to be dissolved. The revenues of St. Patrick's are, by estimation, 4000 marks (£2666 13s. 4d.) per annum, which would serve to begin the foundation of two universities, and endow a couple of colleges in them with £1000 a-year apiece, and the residue may be employed on the reparation of the said church and houses, and be annexed unto Christ Church, by way of augmentation of the choir."

¹ Hamilton's "State Papers," temp. Elizabeth, p. 445.

In each of these colleges he intended to have settled six masters, with one hundred scholars, "to be instructed by them in civility, learning, and loyalty—the six masters to be chosen out of the most learned residentiaries of the cathedral, who in their turns, three and three of each college, were to reside and keep hospitality in the several prebends whereunto the cure of souls was annexed."¹

"Great unkindness," writes Perrot's biographer, "then burst out between the Lord Deputy and Archbishop Loftus, partly upon public accounts, and chiefly on St. Patrick's church, which the Lord Deputy had in his instructions to convert into a college, and had a great desire to get it forward, but Loftus opposed him, being interested in the livings of St. Patrick's, by long leases, and other estates thereof, granted either to himself, his children, or kinsmen, and therefore did by all means withstand the alienation of these revenues; and being a man of high spirit, and used to bear sway in the governments, he grew into contradiction, and from contradiction to contention, with the Deputy, who, on the other side, brooking no opposition, it grew to some heat between them, whereof the Queen, taking notice, wrote to them both to reconcile themselves together. But the Archbishop stuck to him to the last, and was a main instrument in bringing him to his condemnation; and Perrot, in his last will, solemnly testified that the Archbishop falsely belied him in his declaration against him."

The Lord Deputy, in urging on the parliament the necessity that existed for the establishment of a university, and the dissolution of St. Patrick's, was merely carrying into execution Her Majesty's instructions, which were as follows:—"For the better training up of youth in our realme of Ireland, in the knowledge of God and good learning, it were necessary that some college were erected, for which purpose consideration is to be had for St. Patrick's, in Dublin, and the revenue belonging to the same may be made to serve for that purpose, as it hath been heretofore intended, and also to consider how by parliament some contribution may be given out of every diocese, to be charged upon the leases of unappropriated parsonages, such also as are inclined to civility would be moved to yield voluntarily, and with good contentment, some yearly contributions, to be charged upon the lands, whereby readers and instructors of youth might have convenient salaries." The whole of this project was, however, defeated by the unflinching opposition of the Archbishop, whose "ambition and avarice was of service in preserving the ancient cathedral from being converted into a university."

A plan was soon after proposed by Loftus himself which

met with a happier success. Within sight of his episcopal palace of St. Sepulchre's were the stately towers of the long-deserted Priory of All-Hallows. Fifty years had passed over since the service of the Most High was performed within its walls. Its sanctuary was broken, and its priests were scattered. The church itself was less injured than the other buildings of the monastery: the roof was still graced with the groined arches, in which the owl, the bat, and the night birds now nestled. It was to those ruins that Loftus turned, and it was upon those ruins that he resolved to raise the new university, and thus save the cathedral, and shelter from exposure the scandalous leases he had made, when Dean of St. Patrick's, to members of his own family. The corporation of Dublin he therefore addressed in a lengthened speech, delivered at the Tholsel.¹

"MR. MAYOR,—The abundant joy which you and your worthy brethren expressed, upon the representation lately made of Her Highness's most gracious intention to erect an university of good literature in the kingdom, assures me that what I have to say unto you will raise a jubilee of rejoicing in every of your affections.

"What I represented unto you formerly, you apprehended as the happiness of an equal communication in a common benefit, but what I am now to impart to you is that which speaks of Her Highness's design to give you a peculiar advantage in participating much more largely than others of that common benefit intended to the nation, by placing the seat of that university within the neighbourhood of this her beloved city. What advantage a university of learning, and other common societies and general assemblies, ordinarily bring to places wherein or nigh whereunto they are situated, is apparent in that growth of prosperity in the city of Oxford and town of Cambridge, proportionable to the augmented number of colleges and multiplication of students therein.

"And to argue from our own experience is it not clear, in truth, that the late dissolution of societies [in allusion to the dissolution of the monasteries] hath occasioned a too sensible decay of commerce in this city, and consequently hath demolished the wealth and growth thereof, tho' fully recompensed in another kind by the blessings of a happy and glorious reformation in religion thereupon introduced." This speech of the Archbishop leads us to conclude that the mayor and aldermen had embraced—as numbers of nations now Catholic in Europe had then embraced—the doctrines of the Reformers.

¹ *Camdeni Annales Elizabethæ*, tom. i. Editoris Præfatio. Ed. Thom. Hearnius. Dalton's *Archbishops of Dublin*, p. 240.

The Archbishop continues :—" You are also sensible of the great benefit you receive by the constant residence of the chief authority and state of this kingdom amongst you, in so honourable a representation of Her Majesty, and of the royal presence maintained by Her Highness's bounty in a post of splendour and magnificence.

" You may further consider that the inhabitants of this city are in a great measure maintained and relieved by the holding of four terms of the year for the administration of justice in this place, whereunto resort great multitudes of people for the determination of causes and controversies, and I know you are so considerative as to apprehend how unhappy the city would be were the tribunal for the general administration of justice removed hence into the remote parts of the kingdom, as it was once in the space of seven years in England, from London to York."

The Archbishop then makes use of an argument which in later years has been often repeated by those who would restore to the city of Dublin its High Court of Parliament :—" Moreover it may serve as an argument to convince you of the benefit of general assemblies and public societies, that you will consider that the great and general convention of all the states of this land, the High Court of Parliament, doth draw into this city, when here assembled, an extraordinary access of noble persons and others, to the enriching of the city.

" I having thus spread before you the large advantages accruing to the places where universities are founded, where the seat of the State is established, the tribunal settled, and parliaments held, I hope you will account it no extravagancy, but a branch of natural amplification to mind you of a thankful acknowledgement to Her Highness, by whose royal favour you, have, or may hope to enjoy, every one of those benefits ; and it is my hearty desire that you would express yours and the cities' thankfulness to Her Majesty, in an act of so much piety as the free granting of a fitting place whereon to found a college, and the conveniences that necessarily belong unto such society near the citie, whereby your memories will shine to posterity in the long lasting good work you will thereby leave behind you. For a monument of this kinde erected in parliament may be as durable as an inscription graven in marble. You will thereby receive honour from the world, thanks from your Sovereign Lady the Queene, approbation from your enemies, applause from your friends, for that act which will be rewarded with far more than proportionable advantages of gain to your posterity in the line of natural propagation. Nay, you will, in this time of reformation, dazzle the eyes of the Papists with the lustre of well-doing.

“Mr. Mayor, I preached lately in your hearing against Papist merit, and the presumptuous pretension of the Romanist to works of supererogation, and it is not from the persuasion of an altered man that I now desire to promote good works. For charity requires the one, and the Holy Scriptures condemn the other; and it is enough to attract benefactors that God is well pleased with our good works, though they be not in themselves meritorious; whereas to ascribe too much to good works, as do the Papists, is to turn the virtue of charity into the crime of sacrilege. I do not, therefore, urge you to this grant as an act of merit, but as of good acceptance with God Almighty, of great reward hereafter, and of honour and advantage to yourselves, and more to your learned offspring in the future, whereas by the help of learning they may build your families some stories higher than they are, by advancement either in church or commonwealth. It is a true observation among all moralists that men will easily bend to those virtues, which comport, or may be converted into their own complexions; and orators will tell you that assent is easy, where the proposal patronizeth the gain of him to whom it is made. Hence it is, and it is indeed of sad consideration, that some men, who are most nice in observing the rules of Scripture, as being stamped with deep impressions of conscience in most matters of Christian practice, do too readily decline it in matters of gain, in so much that for greedy lucre's sake they will sinfully put their money to usury, flatly against Scripture, without imitation or consideration had of the contingency of gain or loss to the borrower, though such crime of usury is placed by St. Basil amongst the greatest evils. For it is a hard matter to live a usurer and die a good Christian. If then, it bee so, that men so nice in religion, do so desperately comply with that deadly sin for worldly advantages, I cannot but hope for the assent of the city to what is proposed, so consonant with religion, and conducing so much to their lawful advantage in every respect, and the rather for that the reasons of public good stand with private emoluments in the matter proposed.

“I have not much more to say in further invitation of your favourable attention in general, but I'm to speak more particularly to you, who being fathers of children, place your hopes in posterity, and therefore desire that they may be of comfort unto you whilst you live, and an honour to your memory after death.

“I pray you to consider of their advantage in these few particulars, that the erecting of a college will not only be a means of civilising the nation, and of enriching this city, as I have already observed unto you, but that your children, by their birth in this place, will, as it were, fall opportunely into

the lap of the Muses, and that you need not hazard them abroad for the acquiring of foreign accomplishments, having a well-endowed university at your door. Lastly, that such of your children as be there placed, may be able, with God's blessing on their endeavours, to work their advancement without being too burthensome to their parents,

"Sir, I need say no more, as I conceive, to soften your ears to persuasion, having already urged both reason and interest. I therefore desire you and your worthy brethren, my ancient friends and acquaintances, to apply your industry to the effecting of what is now before you, and that in order thereunto you will be pleased to call a common councill to declare thereon, having first informed the several masters of every company of the pregnant likelihood of advantage, thereby to twist and interweave itself with most, if not all trades in the city, as also of the other arguments I have offered in furtherance of my well-intended proposal, together with such motives as your discretion shall think fit, to add as conducable thereunto, and then I shall not doubt but that the plurality, or rather universality of votes, will be regulated by the voice of reason.

"Mr. Mayor, you know that I have always held myself tyed to the inviolable maintenance of yours and the city's liberty and privileges in general, and amongst themselves; and now I desire that you will be no more failing in setting forward this good work by your assistance, than I have been wanting by the strength of my prayers and best endeavours to promote the welfare of this city in every respect; and I shall finally dismiss you with my blessing in the name of the Father, and of the Son, and of the Holy Ghost, praying to God that the prosperity of this ancient city, and now well-governed corporation, may never be disturbed in the least degree of infelicity, and that its constant happiness may fill up the largest catalogue of all divine and humane blessings to the length of the world's duration, which is the period of all successions, natural and civil.—Amen—Amen."

The mayor, aldermen, and commons unanimously granted the request of the Lord Chancellor. Having thus far succeeded, his Grace employed Henry Usher, archdeacon of Dublin, to petition the queen for her royal charter, and for a mortmain license for the land granted by the city. The queen received the petition favourably, and by warrant, dated the 29th of December, ordered a license of mortmain to pass the seals for the grant of the priory (which was stated to be of the yearly value of £20), and for the foundation of a college incorporated, with a power to accept such lands and contribution for its maintenance as any of her subjects should be charitably moved to bestow, to the value of £400 a-year.

On the 3rd of March following, letters patent passed in due

form, pursuant to said warrant, and thereby the Lord Chancellor was appointed the first provost of the university, or as it is more vaguely described, of the *mother* of the university—the name of the body corporate being the “Provost, Fellows, and Scholars of the College of the Holy Trinity founded by Queen Elizabeth, near Dublin.”

That the new university was founded by a Protestant sovereign for the dissemination of Protestant principles was manifest, though from the patent no such intention can be gathered. The Catholics in the provinces outside the Pale held the college in detestation, and they sent their sons for the most part to Salamanca for their education, where loyalty to the king of Spain and disloyalty to the queen of England were inculcated. The Catholics, however, within the Pale did not regard Trinity College with the same disfavour. Now the college of Salamanca at that time was presided over by a Jesuit, whose name was Thomas White, an Irishman, but of the Anglo-Irish Catholics within the Pale whose detestation of the Irish Catholics of Ulster and Connaught was intense; and to remove this Jesuit from his office was the object of O'Donel, who, on the 22nd of May, 1602, caused a memorial (still preserved in the Irish college of Salamanca) to be presented to the King of Spain on the subject.

“*To His Catholic Royal Majesty*—The Condé O'Donel, of Ireland, kisses the feet of your majesty, and says that, in the kingdoms of your majesty there are several colleges or seminaries for the instruction of Irish students, who, through the persecution of the heretics, cannot [in their own country] be instructed in the sound and Catholic doctrine; and that in particular your majesty has a college at Salamanca, which is maintained for this purpose by the charity of your majesty, added to the funds set apart for its support by the bishops and titularies of Spain.

“Over this college presides a religious, a member of the Irish order of Jesuits, and a native of those provinces that are subject to the queen, and consequently schismatical, who does not entertain a pious affection for the open and avowed Irish Catholics of Ulster and Connaught, who have for so many years held arms in defence of the faith, and on this account does not wish to receive the students of those provinces; the truth being, that they more than any others ought to be sustained by the alms of the faithful, because of their having remained true Catholics and vassals of the Church and of your majesty, on which account it may be expected that they will produce better fruit than those who have been reared on such bad milk as obedience to the queen and an affectionate love for her interests, and [for persons] outside the pale of the Church;

the result being, that when they return among their own people, they will let themselves be carried with the current, and thus do much more evil than if they had not studied at all, because they teach that it is permissible to obey the queen and to take arms against your majesty; and those that do so, they confess and absolve, and admit to mass and the [in allusion to Trinity College] divine offices.

"But those students are usually the sons of rich merchants, who could be educated at the expense of their parents, and who, if it were not to save the cost, would be sent to pursue their studies in England, like others of the same class. Even in Ireland itself, in those provinces subject to the queen, there are considerable facilities for study; but ours are Catholic of the Catholic, who cherish in their hearts obedience to the Church, and who from their cradle abhor the accursed sect of the queen, and proclaim against it. Owing to continual wars, they have no means or opportunities of study; those who come to Spain are the sons of the nobles who have lost their properties for the faith, and have no means of obtaining the advantages possessed by the others.

"For these and other reasons I supplicate your majesty, on the part of O'Neill and of myself, and on behalf of those two provinces, that your majesty will command that the said seminary of Salamanca shall receive one-half of its students from Ulster and Connaught. For the carrying out of this arrangement, it will be necessary to remove from the administration of the college the religious who at present directs it, whose name is Thomas White, and to appoint a Spanish rector to preside over it, who will punctually obey the orders he shall receive, because it is certain that the father referred to will always be prepared with plausible excuses for rejecting those students; and even should he be compelled by force to receive them, he will treat them in a way that will be impossible to be endured. In thus acting, your majesty will do a great service to our Lord, and confer the greatest possible benefit and an especial favour on the true Catholics of Ireland."

On the death of Queen Elizabeth, Loftus was appointed by her successor Lord Chancellor of Ireland. One of the last of this Chancellor's communications with the Secretary of State shows the intolerance and bigotry that darkened all his acts:—"Your lordship hath wisely considered that the *word* alone without the *sword* is not sufficient to bring the people of this realm from popery—a thing whereto they are misled over from their cradles. But I assure your lordship, that unless they be *forced*, they will not ever come to hear the word preached; as by experience we observed at the time appointed by the Lord Deputy, for a general assembly of all the noblemen and

gentlemen of every county, after her Majesty's good success against the Spaniards, to give God thanks for the same: at which time, although the sheriffs of every county did their duties with all diligence, and warned all men to repair to the principal church, where order was taken for public prayers and thanksgiving unto God, together with a sermon to be preached by choice men in every diocese, yet very few or none almost resorted thereto; but even in Dublin itself, *the lawyers in term time* took occasion to leave the town on purpose to absent themselves from that godly exercise. It is bootless labour for any man to preach in the country out of Dublin, for want of hearers; but in mine opinion this may be easily remedied, if the ecclesiastical commission be put in force, and if liberty be left to myself to *imprison* and *fine* all such as are obstinate in popery. The sooner this course of reformation is begun the better it will prosper, and the longer it is deferred the more dangerous it shall be." What that Protestant Ecclesiastical Commission was which Loftus so sought to be enforced is thus explained by Hume, under date of 23rd November, 1584:—"She," the queen, "appointed forty-four commissioners, twelve of whom were ecclesiastics; three commissioners made a quorum; and thus its methods of proceeding were contrary to the clearest principles of law and natural equity. The commissioners were empowered to visit and reform all errors, heresies, schisms—in a word, to regulate all opinions, as well as to punish all breaches of uniformity in the exercise of public worship. They were directed to make inquiry not only by the legal method of juries and witnesses, but by the rack, by torture, by inquisition, and by imprisonment."

Early in March, 1605, the Chancellor Archbishop was seized with his death sickness, and on the 5th of April following, having held the seals for two-and-thirty years, he closed a life remarkable for bigotry, avarice, and cruelty. His remains were interred in St. Patrick's Cathedral, on the right hand of the communion-table. He left at his death several children; and his second daughter, Anne, was married to Sir Henry Colley, of Castle Carbery, ancestor of the Duke of Wellington.

88. A. D. 1605.—THOMAS JONES, Protestant Archbishop of Dublin, was educated at Christ Church College, Cambridge. Having been ordained a minister of his Church, he crossed over to Ireland, and married the sister-in-law of Archbishop Loftus, to which alliance he was probably indebted for his subsequent advancement in Church and State. His first promotion was to the Chancellorship of St. Patrick's, and he was subsequently, in 1581, advanced to the deanery of that cathedral. As

Dean, he impoverished the deanery by the scandalous leases he made—leases which Dean Swift in after years, by the following endorsement on one of them, so severely censured:—“Lease of Coolmine, made by that rascal Dean Jones, and the knaves or fools of his chapter, to one John Allen, for eighty-one years, to commence at the expiration of a lease made in 1585, so that there was a lease for eighty-one years, of 253 acres, within three miles of Dublin, for £2 a year, worth £150 a year.”

In 1584 Dean Jones became, by the favour of Queen Elizabeth, Bishop of Meath, and it was while he filled that office, namely in 1591, that he performed the ceremony of marriage between O’Neil Earl of Tyrone and Mabel, sister of Marshal Bagnal. This union, not untinged with romance, is told in the State Papers of that day, and as the solemnization of that marriage cost Jones much uneasiness, and was well nigh being the cause of his degradation from the episcopal bench, we shall tell it almost as it is told in the translation of the Burgundian Manuscripts, made by the Rev. C. P. Meehan, the accomplished Catholic curate of SS. Michael and John’s, Dublin. In the manuscript we speak of, also entitled the “*Noctes Louvainenses*.”—it was written in the year 1616—two exiled friars, Father Purcell, and Father Mooney, of the Franciscan order, are supposed to be seated in the library of the convent of Louvain, and in a conversation between those reverend fathers, the following, which we have altered from the dialogue form, is told: “Sir Nicholas Bagnal, the first of that name who figures prominently in our history, came to Ireland in 1542. He was a native of Staffordshire, in England; and being a hotheaded person, killed a man in a brawl, for which he had to fly his own country, and seek refuge in Ireland; where, at the urgent entreaty of Con O’Neill, first Earl of Tyrone, he received pardon from Henry VIII., and in course of time, and by way of *gratitude* to his benefactor, he became an energetic enemy of the O’Neills. Having obtained large grants of land in Down—the principality of the MacGinnesses—he laid the foundation of the modern Newry, and there built a strong castle, in which he constantly resided. Early in the reign of Elizabeth he was appointed marshal of the queen’s forces in Ireland, and when he died his son Sir Henry succeeded to all his honours. The latter was a man of considerable ability at the pen, for he wrote a description of Ulster in 1587. Sharing his father’s hatred of the Irish, and intent on his own aggrandizement, he lost no opportunity of adding to the grants which he had inherited; so much so, indeed, that he ultimately became one of the most active of the supplanting foemen of the O’Neills and their subordinate lords. When the MacMahon of Monaghan was

executed at his own door, by the infamous order of deputy Fitzwilliam, Sir Henry Bagnal received a considerable portion of the murdered chieftain's lands; and there can be little doubt that he hoped to oust Tyrone himself, and share the partition of his wide domains. He was, in truth, a greedy adventurer, restless, rapacious, unscrupulous; in a word, one who deemed it no sin or shame to aid in any process by which the rightful occupant might be driven from his holding, provided he got share of the spoil. This man hated Tyrone with implacable animosity; and indeed the earl reciprocated the sentiment, and branded him in public and private as a coward, who shrank from the ordeal of single combat. Bagnal had refused to encounter Tyrone, when the latter proposed to meet him—and this, too, although the earl offered to allow him to come armed from head to foot against himself in hose and jerkin, to encourage him to accept the challenge. Bagnal was valiant enough with the pen, was a perfect master of fence when nothing but the pen was needed to deal an assassin thrust; but when there was a question of cold, glittering steel, his heart melted within him like wax. Tyrone's first wife, the countess Judith, sister of Hugh Roe O'Donnell, died early in 1590; and some months afterwards the earl met in Newry Mabel, Sir Henry's second sister. Fascinated by the beauty of the English maiden, then just entering her twentieth year, and captivated by the grace of her manners, the earl resolved to marry her, and declared his intentions to her brother. Sir Henry, however, on hearing the proposal, raised some difficulties about the *incivility* of the earl's country.

"Finding, nevertheless, that his sister had set her heart upon this marriage, Sir Henry refused to allow the nuptial ceremony to take place till he had received letters from Queen Elizabeth's cabinet sanctioning the project; and in the meanwhile he caused Mabel to be removed from the castle of Newry to Turvey, some eight or nine miles north of Dublin, the residence of Sir Patrick Barnwell, her sister's husband. How it fared with the marshal's application to the queen's ministers is untold; but it is quite certain that Mabel's removal to her sister's mansion did not realise her brother's intent; quite otherwise indeed, for the earl followed her to Turvey, and employed all his persuasive eloquence to obtain Lady Barnwell's consent to the marriage; and she was little loath to see her fair sister mated with one whose ancestry, chivalry, and wide domains entitled him to the hand and heart of the most nobly-born dame in Christendom. Sir Patrick Barnwell, too, gave willing ear to his pleading; and, as for Mabel, such was the vehemence of her love, that she solemnly trothed herself to Tyrone, who presented her with a chain of gold, as a symbol of that union in which their hearts were to be linked for evermore. The '*trouthal*' took place early in July

(1591), and towards the close of that month the earl, accompanied by a gay retinue of English gentlemen, went to dine at Turvey, where their host made them good entertainment, and where it had been previously arranged that Mabel should bide her opportunity, and leave the mansion with one of those who had come in Tyrone's suite. After dinner, accordingly, when the guests were betaking themselves to various games, she mounted on horseback behind the earl's friend, who, followed by two serving-men, never drew bridle till they arrived at the house of a Mr. Warren, who lived at Drumcondra, within a mile of Dublin. As soon as the earl ascertained that his 'prey'—the word is his own—was well forward on her road to the place agreed upon, he, too, mounted his horse, and accompanied by his English friends, spurred hard after his lady-love. There was no time to be lost in solemnizing the nuptials; and the earl despatched a messenger to Jones, the queen's Bishop of Meath, who happened to be in Dublin at that moment, praying him to hasten without delay to Warren's house, where his presence was urgently needed. The bishop may have imagined that Tyrone was about to renounce his faith; but if any such idea haunted his mind it was soon removed, when, on entering the house, he found arrangements made for a wedding, and the fair girl in a noble apartment, attended by a considerable number of English ladies and gentlemen. 'My lord,' said the earl, 'I have invited you hither to marry myself and this gentlewoman, to whom I was betrothed about twenty days ago; and I am desirous that rather you than any other should perform the office between us, that the world may know we are married according to her majesty's laws.' 'What you require from me,' replied the bishop, 'is a matter of great importance; and you must first permit me to confer with the gentlewoman herself;' and with this he took Mabel aside, and demanded of her whether she had plighted her troth to the earl. She answered that she had done so twenty days before, and that she had received from him a gold chain, worth a hundred pounds, as a token. To the question whether she had come away voluntarily from Turvey, she replied that she had done so of her own free consent; and finally, when asked whether she was resolved to take the earl to her husband, she answered: 'My lord, you see in what case I am, how I came hither with mine own consent, and have already promised the earl to be his wife. I beseech you, therefore, for my credit's sake, to perfect the marriage between us; the sooner the better for my honour's sake.' Satisfied with the examination, the bishop remarked that it barely remained for him to perfect 'the knot that themselves had already knytt.:' and he instantly solemnized the marriage according to Her Majesty's laws. The merry makings on this occasion lasted four or five days, and such

revel was never before witnessed in Drumcondra. At its conclusion, the earl hastened back to the north with his young bride, and Mabel was now Countess of Tyrone.

"Sir Henry Bagnal was furious at this marriage, indignant that his father's blood and his own, which had been often spilled in repressing this rebellious race, should now be mingled with so traitorous a stock and kindred! And not satisfied with this, he vented his rage on Jones for celebrating the marriage. 'The Bishop of Meath,' said he, 'participated in this villany; and by such like examples in men of his sort, God's word is greatly slandered, and many men in this kingdom, who would otherwise willingly embrace the truth, are brought into detestation of the gospel!' But he made a graver charge against him, and asserted that Mabel's nuptials were solemnized while the earl's wife was still alive, and that he, the bishop, was aware of the impediment. Burghley, on receiving this intelligence, wrote by the queen's orders, commanding Jones at once to account for his conduct; and the poor man, frightened out of his wits, replied 'that he never was cognizant of any such "barr;" and that if he had had an inkling of it, he would not have done what he did, *not even for the marshal's yearly revenue.*' Fortunately for the bishop, the queen, through her minister, pronounced that the Earl of Tyrone had acted honourably in the matter, and Jones was acquitted of the charge brought against him, although it was said that this marriage had so deeply offended Elizabeth, who thenceforward regarded the earl as her bitter enemy, and he *æternum sertans pectore vulnus* would never, had she outlived Archbishop Loftus, have raised Jones to the archiepiscopal dignity. It was well for him, then, that she died in 1603, two years before the death of Loftus. Jones had long been a member of the Privy Council, and, accordingly, we find his name attached to the proclamation announcing the formation of the Connaught circuit in 1604. In the following year he became Archbishop of Dublin and Lord Chancellor of Ireland."

On the 4th of July following his appointment, his name was attached to a proclamation commanding all the Catholic clergy to depart from the realm; and in the same year the custom of tanistry was abolished, and the law of primogeniture introduced. The persecution of the priests went on, and while the foxes had holes and the birds of the air had nests, the priests had not wherein to lay their heads. A price was set upon them and upon their protectors, and the lives even of the O'Neils, Earls of Tyrone, and of the O'Donels, Earls of Tyrconnell, were not worth, in consequence, an hour's purchase. Then followed—it was on the 14th of September, 1607—the flight of the earls, and their vast territories declared confiscated to the Crown. The history of their flight is told to us in his own fascinating

manner by the Rev. Charles P. Meehan, in his work on *Fate and Fortune of the Earls of Tyrone and Tyrconnell*. A new plantation was, in consequence, made in Ulster; and the Lord Chancellor was active in the removal of the old and the planting of the new tenants of the soil. His name appears to the warrant of removal, the mandatory part of which wicked document is as follows:—

“TO THE SHERIFF OF THE COUNTY OF ——— Now know ye the Sheriff of the county of ———, that we charge and authorise you forthwith after the end of the present harvest to remove the natives of that county; and you are to admonish and intimate to the said natives that they must prepare themselves to depart, with their goods and chattels, before the 1st day of May next, to whatsoever part of the realm they may please to go.”

Archbishop Jones was rewarded for his apostolic zeal by a grant of the dissolved monastery of Trim with its vast estates. In 1611 he presided at a council of the bishops of the Episcopal Church, held in Dublin for the purpose of devising some sure methods for the extirpation of Popery. Diocesan schools were to be forthwith established, and the churches of the Establishment were, as soon as the legislative enactment could be obtained, to be repaired; and further, they, with the wisdom of the wise, devised that those reparations were not to be at their own cost, but rather at the cost of others, that is to say—at the cost of those differing from them most widely, and whom they stigmatised as “Papist recusants.”

In the following year, 1612, the Lord Chancellor presided daily in the parliament “which was opened on the 18th of May, and he made at the opening a grave and worthy speech touching the causes there to be debated upon for the good of the kingdom and for the commonwealth thereof.”

In 1614 the Chancellor attended a “commencement held in Trinity College for the purpose of conferring degrees; but the room being small, they adjourned to St. Patrick’s Cathedral. In 1615 the convocation of the Protestant church met in Dublin under his presidency. He died in the month of April, 1617, and was buried in St. Patrick’s Cathedral. He had been many times Lord Justice. His son was, in 1628, raised to the peerage, and from him is descended the present Viscount Ranelagh.

89. A. D. 1619.—LORD ELY. Adam Loftus, nephew of the Chancellor, Archbishop Loftus, represented the King’s County in the parliament of 1598. It was said that he was unrivalled in debate, and he soon won the offices of Master in Chancery and president of the province of Munster, and on the death of Archbishop Jones was appointed Lord Chancellor with a peer-

age. In the same year his lordship was present in Christ Church Cathedral at the inauguration service of Lord Falkland, then sent over as Lord Deputy, when the celebrated and learned James Ussher, afterwards Archbishop of Armagh, delivered a violent harangue against the Catholic faith, which excited great alarm throughout the country. Then followed the memorable proclamation commanding all popish priests, numbering 1160, of whom 120 were Franciscans, and 53 Jesuits, to depart from the kingdom. Not satisfied with the confiscation of Ulster, the king succeeded, immediately before his death, in having placed at his disposal 384,000 acres of land in Leinster, which he had the gratification of seeing planted with Protestant settlers.

In 1625 Charles I. ascended the throne, and the Catholics were led to believe that the severities of the penal laws would soon be mitigated; but the advisers of the king were determined, on the contrary, to stamp out the last spark of the Catholic faith, and Lord Ely was the right man to carry out this policy. In 1625 the relations between the Lord Deputy and Lord Chancellor were of the most unfriendly nature; since, although vieing one with the other in their abhorrence of "the woman of Babylon," as they affected to call the Catholic Church, yet neither would brook the slightest interference by the other in the duties of his office. Lord Falkland called on the Chancellor to affix the Great Seal to several patents presented to him for that purpose, and to appoint certain judges for the circuits, and issue commissions of the peace to several persons named by him for the magistracy. To every one of these applications, or, more properly speaking, commands, the Chancellor replied in the negative. This created much excitement in England, and was at length brought before the king, who decided in great measure against the Chancellor. On the first point, Lord Ely insisted that many questions of public policy and of law were involved in the passing of patents. The king ordered, that if the Lord Chancellor should thenceforward refuse to affix the Great Seal to patents presented to him, he should state the reasons for his refusal; and if those reasons were on the grounds of public policy, that the matter should be mentioned to the Privy Council; and if they were of opinion that the Seal should be affixed, that then the Chancellor might at his peril appeal to the king; but if the question be one of law, that it should be brought before the judges, from whose decision, likewise, an appeal might be made to the king. On the other questions His Majesty held that the Lord Chancellor should state his reasons for refusing to appoint judges of the circuit and justices of the peace, and that these reasons should then be brought before the Privy Council, whose decision was to be absolute and binding; "while

in all these cases it becomes the Lord Chancellor to repair to the Deputy, and to acquaint him with the reasons why he refuses."

In 1627 Lord Ely was commanded to deliver up the Seals, and to repair to the king's presence, there to answer certain charges made against him in relation to the raising of money for the king's service in Ireland, as well as for acts done by him in the administration of justice. His lordship conducted his own defence, and so successfully that he was restored to the office of Chancellor on his return to Ireland.

In 1629 Lord Falkland, who had permitted, by way of grace, Catholic barristers to practise at the bar, was recalled, and the Lord Chancellor was appointed Lord Justice. The penalties provided by the 2nd of Elizabeth were then put in force, and the celebration of Catholic worship prohibited. Dr. Buckley, Protestant Archbishop of Dublin, a privy councillor and magistrate, took, on Christmas Day, 1629, a file of soldiers to Cook-street Catholic chapel, where a large congregation were gathered. The priest was torn from the altar. "The pastor was smitten and the flock were dispersed;" but the dispersion was far from being a peaceable one, and the archbishop narrowly escaped in a riot that followed. The name of the Chancellor—then, as we have said, Lord Justice—is appended to an Order of Council directing the demolition of the house, "where the friars appeared in their habits." Such was the spirit of the times when Lord Wentworth, whose hateful memory is better preserved by his subsequent title of Earl of Strafford, assumed the duties of Lord Deputy in 1633. This nobleman, supercilious and overbearing, could brook no advice from the equally overbearing Chancellor, and perpetual quarrels were the result.

Within the month after the Lord Deputy's arrival in Ireland the summer assizes commenced, when at Trim one of the judges of the home circuit died. This matter was at once made known to the Lord Chancellor, who issued a commission to a Mr. Alexander, a member of the circuit, to act as judge. The Lord Deputy required the instant revocation of the commission, and suggested that Serjeant Eustace (afterwards Lord Chancellor), a man of noted ability, should be appointed. The gaol of Trim was then full to overflowing, and His Excellency was apprehensive that Alexander was incompetent to fill the post. The subject was brought in all haste before the king, and he commanded the Chancellor forthwith to comply with the suggestion of the Lord Deputy, and directed, if he did not do so, that the Seals should be taken from him. The commission to Alexander was accordingly revoked, and Serjeant Eustace was appointed.

The confiscation and plantation of Ulster having been now for several years completed, a commission was issued for Connaught, with the design of confiscating the whole of that pro-

vince to the Crown by fictitious forms of law. The ingenuity of the crown lawyers was employed to subvert the title of the landlords to every estate beyond the Shannon, and the juries of Roscommon and Mayo found that the title to these counties was vested in the Crown; but when it came to the turn of the county of Galway, the jury of this noble county refused to sanction the nefarious plunder by their verdict. In consequence, the jurors were fined; and the high sheriff, Mr. Darey, who returned their names, was fined and cast into prison, where he died of the hardships he had there endured. Another commission was then issued to Lord Ranelagh, President of Connaught, Sir James Donelan, and others. A jury was again sworn, and they, terrified by the treatment of their predecessors, found for the Crown. One-half of the lands of that refractory county was confiscated, while only one-fourth was confiscated in the other counties. The next instrument of torture invented for the Catholics was the establishment of the Court of Wards, under the presidency of the Chancellor, for the avowed purpose of rearing in the Protestant faith the heirs of Catholic proprietors. There was also a High Commission Court, which exercised a fearful tyranny over all classes; and the extortions practised by the ecclesiastical courts were intolerable. "The Bible in one hand and the sword in the other" was the only method of converting the Irish papist.

Lord Ely held the Seals until 1638. His family was large, and amongst them was one remarkable for her beauty, who was married to Sir Luke Gifford. The Chancellor had made no suitable provision for her on her marriage; but this was surely a matter of private concern, with which the Deputy should never have interfered. It was, however, too true that he did interfere, and that this interference was caused by his unhal- lowed love for Lady Gifford, to whom he had written impassioned letters, breathing tenderness, affection, and familiarity. The Seals were then taken from the Chancellor, and he was cast into prison. It is almost certain that questions other than his refusal to make a suitable settlement on his daughter were before the Privy Council, since, without more serious cause, they could never have suspended him from office. Their reasons for doing so, however, they have not specified in their following despatch to the king:—

"May it please your most sacred Majesty,—We feel it to be our duty to represent to your Majesty, that we, by the entire votes of us all now in Council, until your Majesty's royal pleasure be further known, have this day prevented the Lord Chancellor from sitting at his Court, and required him to forbear from exercising his office of Chancellor, and by warrant commanded his lordship to-morrow morning to bring the Great Seal to be delivered here to me the Lord Deputy. The reasons

which have compelled us thus far to proceed we shall transmit over with all duty and speed, and most humbly beseeching your Majesty to believe that we are able to give full satisfaction."

Lord Ely left Dublin immediately on his release from prison, and went to reside with his daughter, Lady Moore, wife of Lord Moore, at the abbey of Monasterewan, now known as Moore Park. Lord and Lady Moore were ancestors of the present Marquis of Drogheda. Though the Chancellor left several sons, his short-lived peerage expired in 1725; but sixty-four years later the title of Viscount Ely was again conferred on a branch of the Loftus family.

90. A. D. 1638.—SIR RICHARD BOLTON, who had been previously Chief Baron of the Exchequer, was appointed Chancellor by Lord Strafford (Wentworth) immediately on the dismissal of Lord Ely. In the year 1641 Strafford was called on to account, amongst other things, for his misconduct in Ireland. Sent to the Tower, he was impeached by the English House of Commons; and one of the many articles of impeachment was the imprisonment of Lord Ely. Immediately the Irish House of Commons, which had flattered that unscrupulous minister when he was in office, now that he was out of office sent a deputation to aid the English parliament in obtaining his conviction. Sir Richard Bolton, whom he had created Chancellor, was then impeached for "delivering unjust and erroneous judgments whereby thousands had been ruined in their goods, liberties, and lives, and many of them utterly destroyed by the mutilation of their members and other punishments, and also for conspiring to destroy the liberties of the people." The matter of his impeachment having been brought before the House of Lords, a question was put to the judges, for their opinion—whether the Lord Chancellor, "whilst lying under an impeachment, could act as Speaker of that House." The unanimous opinions of their lordships was that the Chancellor, until cleared of the articles of impeachment, was not competent to act as Speaker. The business of the Court of Chancery therefore came to a dead lock, and so remained until the Lords Justices signified their pleasure that no further proceedings should be taken in the matter, which then dropped. Many years after Sir Richard Bolton's death, both Houses (A. D. 1661) voted that all records of this transaction be expunged, "inasmuch as they seemed to be an entrenchment on the honour, worth, and integrity of honourable persons, whose memory this House cannot in justice suffer to be sullied with the least stain of evil report."

Much indignation was excited in Ireland during the early portion of the year 1641, on account of the superiority claimed

¹ *Commons' Journal*, vol. i., 198; *Lords' Journal*, vol. i.

by the Court of Ultimate Appeal in England over the Court of Appeal in Ireland. On the 9th of June this question was argued at considerable length before the Lord Chancellor, Sir Richard Bolton, and a committee of the House of Lords. Counsel appeared on both sides—the celebrated Patrick Darcy having been instructed to defend the jurisdiction of the Irish courts. His argument, published in 1643, is preserved in the library of Trinity College, Dublin; and though this question has been from that time frequently dealt with by others, yet nothing has been added to his luminous and exhaustive treatment of it.

But questions of another nature now agitated the minds of men. Confiscation and persecution were at work; and to landless outcasts it mattered little whether the Court of Ultimate Appeal was in Westminster or in Dublin! The province of Ulster had been confiscated; Munster was desolated; and Leinster and Connaught stood awaiting their doom! The Irish landlords were gone; the Irish tenants were to be cast like weeds from the soil; the monasteries were in ruins; the poor were perishing from hunger; and their only friends, the Catholic clergy, were hunted like the wild birds from the mountains. Such was the unhappy state of this country when, on the 23rd of October, 1641, the great rebellion broke out. From that time, for twenty years, the Chancellor's duties were confined to the Privy Council, for his Court was powerless to enforce its decrees, and indeed was unsought by suitors.

The only law during that dreary period was the law of the sword. In 1642 the Confederation of Kilkenny was called together, composed of the Catholic prelates, with deputies from several of the counties, Patrick Darcy, the celebrated lawyer, assuming to represent the Lord Chancellor, and Nicholas Plunket acting as Speaker of the House. This council, which professed devoted attachment to the king, disclaimed the title of "parliament," lest they might infringe on the royal prerogative; and pretended to act merely as a provisional government, "to consult for their own affairs till His Majesty's wisdom had settled the present troubles."

In 1644 the Marquis of Ormond was appointed Lord Lieutenant. At that time the king, anxious to obtain the support of the Irish people, had entered into a treaty of peace with the confederates, who thereby engaged to pay His Majesty a sum of £30,000. It was also agreed that the whole of Connaught and Leinster, with the exception of the county and city of Dublin and the county Louth, which were to remain in the possession of the Protestants, should continue in "Catholic" hands. That in Ulster each party was to remain in possession of such places as they had held at the time of signing the treaty; and that Kerry, Clare, Waterford, and Tipperary, with the exception of

certain towns, should be in the possession of the Catholics. With these articles, the Catholics of the Pale were satisfied; not so the Catholics outside the Pale. Between these parties arose incessant broils and recriminations, and it was to reconcile them, one with the other, that the Nuncio, Rinuccini, proceeded to Ireland. On his arrival in Kilkenny he found established there a court pretending to be the Court of Chancery, of which John De Burgh, Catholic Archbishop of Tuam, was then Chancellor, appointed by the confederation, but not by the king. Another actor, however, now appeared on the scene, and through him another conquest was at hand; and the differences of the Catholic parties were to be silenced in the ruin of both! On the 15th of August, 1649, Oliver Cromwell landed in Dublin; the result of his mission is known to all men; and to tell of his conquests and of his cruelties would be outside the limits of work. In those times we find little mention made of the Chancellor Bolton. His leisure hours, previous to the rebellion, had been devoted to the compilation of the Irish Statutes from Edward II. to James I.; and he was author of works entitled respectively *The Justice of the Peace* and *Rules for a Grand Juror*, and of an inquiry as to *How the Laws and Statutes of England came to be of force in Ireland*. Sir Richard was married to a daughter of Richard Walter Stafford, Esq., and by her left at his death in 1650 several children, the eldest of whom, Sir Edward Bolton, was the Chief Baron of the Exchequer from 1640 to 1655.

On Sir Richard's death, the Great Seal was put in commission, and from that time until 1656 there was no Lord Chancellor of Ireland. The commissioners were the Chief Justice Pepys, who had previously been a puisne judge in England, Chief Justice Sir Gerard Lowther, of the Common Bench, and Chief Baron Corbett. These men lost no opportunity in hunting hapless papists from their homes and estates. "Pray for us," writes Sir John Allen, the commissioner for the disposition of forfeited estates, "that now, as we have come to possess houses we have not built, vineyards we have not planted, that we may not forget the Lord and His goodness to us in the day of our distress."

91. **A. D. 1656.**—SIR WILLIAM STEELE was born at Geddy Hall, a moated house near Sandbach, in Cheshire, became a member of Gray's Inn in 1631, was called to the English bar in 1637, and was one of the unsuccessful candidates for the judgeship of the Sheriff's Court of London, in 1643. Owing to the zeal he displayed against the unfortunate Charles I., as it is said, he was appointed by Oliver Cromwell Attorney-General of England, and successively Recorder of London, Chief Baron of the Exchequer in England, and, lastly, Lord Chancellor of Ire-

land. Why he was thus rewarded it is difficult to state, seeing that he feigned illness at the trial of that unfortunate monarch, and cast the whole burden on the Solicitor-General. On his arrival in Ireland the work of confiscation and plunder had been done, "so that he had not an acre left for him to covet." On the death of Oliver Cromwell, in 1658, Lord Chancellor Steele, observing the turn of the tide in favour of Charles II., endeavoured to secure his personal safety by betraying the secrets of Henry and Richard Cromwell to Clarendon and Ormond. Though proud, crafty, insincere, and insolent, he is said to have been a lawyer of ability and learning.

92. **A.D. 1660.**—SIR MAURICE EUSTACE, Knt., was son of William Fitz-John Eustace, of Castle Martin, in the county Kildare; was called early in life to the bar, appointed Serjeant in 1634, and elected Speaker of the House of Commons in 1639. In 1642 he was commissioned by Charles I. to treat with the Catholic confederates at Kilkenny. Sincere in his attachment to the Protestant Episcopal Church, he was voted the thanks of the House of Commons "for his earnest advancement" of that faith. In 1644 he became Master of the Rolls; and on the restoration of Charles II. was appointed Lord Chancellor, with an annuity of £1500 a year, chargeable on the customs of the city of Dublin and town of Drogheda.

The Lord Chancellor and Roger Broghill, Earl of Orrery, who were Lords Justices in 1661, convoked the parliament which passed the Act of Settlement, whereby it was recited that the rebellion of 1641 was a "formed and almost national rebellion of Irish papists," that they were represented in a general assembly chosen by themselves, that that assembly assumed, exercised, and usurped the power of life and death, peace and war, and coined money; at the same time making use of the king's name and authority. The Act then proceeds to reward the murderers of Charles I., and to send outcasts on the world those who had fought for his throne.

Immediately on the passing of the Act of Settlement, the Chancellor obtained a private act for securing to himself his lands of inheritance and leases for years. An outcry was raised in 1663 against the Catholics; and the calumnies of 1641 were revived. It was said, too, that they met in their chapels under the pretence of hearing mass, but really for treasonable motives. The Lord Chancellor uniformly denied the truth of these charges; but that he might with greater certainty satisfy his mind on the subject, he directed the judges of the several circuits to take the opinion of the grand juries on the question. These directions were faithfully carried out; and the answers uniformly given were, that there were no apprehensions

whatever of a revolt. The House of Commons, nevertheless, addressed the Lords Justices on the subject, and these forwarded the address to the Secretary of State, suggesting, at the same time, that Roman Catholics ought not to be allowed to practise at the bar. It was also insisted, in the House of Lords, that the Catholic peers, who were twenty-two in number, should not be permitted to take their seats until they had received the sacrament at the hands of the Primate, Bramhal, Archbishop of Armagh. This was energetically opposed by the Lord Chancellor, whose liberal spirit was manifested on all occasions where it was sought to trample on the liberties of his Catholic fellow-subjects. One suggestion he made—one which, had it been adopted, would have reconciled the Catholic and Protestant parties, and have healed many of the wounds which bigotry inflicted—he suggested that the king should purchase from the settlers the lands granted to them by Cromwell, and that the lands so purchased should be reconveyed to the ancient proprietors. That the government could have become purchasers at a very low figure is certain, inasmuch as the settlers had no security for either their lives or properties.

The residence of Sir Maurice Eustace stood on the north side of Dame-street, in the city of Dublin. His gardens, which were extensive, and crossed by shaded walks, sloped towards the river. These have long since given place to commercial and business streets, one of which still bears the name of that great and enlightened Chancellor. In 1663 he made his last will, and died in 1665, having held office for five years. His eldest son became a Catholic, and entered the service of James II.; was wounded at the battle of Aughrim, and then retired to France, where he joined the French army, and was raised to the rank of Major-General by Louis XIV.

93. A. D. 1665.—MICHAEL BOYLE, Protestant Archbishop of Armagh, was son of Richard Boyle, Protestant Archbishop of Tuam. In 1637, he took his degree of Master of Arts at Oxford, and in 1640 was made Dean of Cloyne. During the great rebellion, he was chaplain-general to the royal forces in the province of Munster, at a salary of twenty shillings a day. In 1644 the town of Doneraile, where Lord Inchiquin, President of Munster, held his court, was threatened by the confederate forces under Lord Castlehaven. Dean Boyle, who was married to Lord Inchiquin's sister, vainly endeavoured to persuade Lord Castlehaven to spare the town and castle, but to no purpose. In 1660 this divine, writes Mr. Dalton, was by letters patent advanced to the united sees of Cloyne, Cork, and Ross, having been a little before called into the Privy Council; and was one of the twelve bishops consecrated in St. Patrick's Church,

on the 27th January, 1660. Not content with the revenues of his bishopric, he held possession of six parishes in his diocese, under the pretence that he was unable to find a clergyman to serve them. In the same year he was sent by the Lords Justices to England, for the purpose of assisting His Majesty's ministers in preparing the draft Act of Settlement for Ireland, a trust which he so executed to the satisfaction of their lordships and the House of Lords, that on the 22nd May, 1662, the thanks of that House were voted to him, and entered accordingly in their journals. On the 27th March, 1663, he was translated to the See of Dublin, and presented with a gift of a thousand pounds by the king, to defray the expenses of his removal, as also to enable him to repair the archiepiscopal palace of St. Sepulchre, which was fast falling to decay. On the 24th June, 1665, he was appointed Chancellor, and immediately entered on the duties of his office. In 1671 he was sworn in as Lord Justice, and in 1678 became Archbishop of Armagh and Primate of all Ireland.

The Archbishop continued to hold the Seals as Chancellor for several months after the accession of James II. in 1685. Before, however, the close of that year, he returned, and was soon after succeeded by another Protestant lawyer, Sir Charles Porter. During the twenty years that the Primate held the Chanceryship, he was assiduous in the performance of his duties, sometimes presiding in his court (which then stood close to the south side of the nave of Christ Church Cathedral), but more frequently in his private house at Blessington, in the county Wicklow, where he built houses for the six clerks. Primate Boyle's Chancery Orders are familiar to every Irish barrister. It is worthy of note that the town of Blessington was built by him, and that the inhabitants were incorporated by charter in the 21st Charles II. He sat in King James's parliament in 1689, and was summoned by William III. to the Privy Council. Having reached the patriarchal age of 93 years, the Primate died in 1782, and was buried by torchlight in St. Patrick's Cathedral.

96. A.D. 1686.—SIR CHARLES PORTER. The early life of this Chancellor is thus told by Roger North:—"Mr. Charles Porter ran a strange course of variety in his life. He was son of a prebend in Norwich, and was an apprentice boy in the city of London in the rebellious times. Perpetually taking part in riotous assemblies, he at one time had a narrow escape, no less than forty pistol shots having been fired at him as a ringleader. Mingling in the crowd, he had the presence of mind to snatch up a little child who was crying in the streets. The people, seeing the child in his arms, opened a way for him, saying: 'make room for the poor child.'" Having thus escaped, he made his

way to Yarmouth, where he took shipping for Holland; "but he scarce put out to sea before his pursuers came down after him, so narrowly did he escape hanging at the time. In Holland he trailed a pike, and was in several actions as a common soldier. At length he set up an eating-house; but his customers being needy, he soon broke down, and returned to England." His appearance, continues his biographer, was in his favour, and he succeeded in obtaining an appointment amongst the clerks of the Court of Chancery; and then he first conceived the idea of being called to the bar. His industry was great; and before long he acquired a dexterity and skill in the forms of the court. To every description of vice he was prone; and "although he was a low companion, and followed much the bottle, yet he made such despatches as satisfied his clients, especially the clerks, who knew where to find him. His person was florid, and his speech prompt and articulate." Notwithstanding his success at the bar, he got into pecuniary difficulties, whereby he was reduced to the greatest penury. Lord North, then keeper of the Great Seal, paid so much attention to his arguments that business again flowed in fast; and yet withal he was "so careless, and joined others in taking up moneys, and so carried on a jolly way of living, that he was once more plunged in debt."

In 1675 the once well-known case of *Dr. Shirley v. Sir John Fagg and other Members of the House of Commons* brought Porter into great notoriety. The entire question was connected with the privilege of parliament, or more correctly speaking, of the House of Commons. It appears that a member of that House was suitor in the Court of Chancery. The Lord Chancellor made his decree, and an appeal was thence taken to the House of Lords. Mr. Porter, who was counsel in support of the appeal, was summoned to the bar of the House of Commons to give an account of why he appeared before the House of Lords in a prosecution in which a member of the House of Commons was concerned. Having excused himself as best he could, he was arrested by the Serjeant-at-Arms while engaged in arguing a case before the Master of the Rolls, and was sent to the Tower. Forthwith the House of Lords directed the Usher of the Black Rod to take the lieutenant of the Tower into custody, unless he at once released the counsel who had been committed by the House of Commons. The lieutenant refused, and the matter was brought before the king, who, however, prorogued the parliament, and thus put an end to a dispute between the two Houses of the Legislature. On the reassembling of parliament, the Commons, being apprehensive that if the Lords lost their appellate jurisdiction it would lapse to the Crown, gave up all further opposition to the entertaining of appeals by the Upper House, and from that time the jurisdiction of the House of Lords

in equity appeals has been uninterrupted. Early in April, 1686, Porter was appointed Lord Chancellor of Ireland; he was, writes Bishop Burnett, "a man of ready wit, and being poor was thought a fit person to be made a tool of." On the 17th of April he arrived at Dunleary harbour (now Kingstown) from England. Lord Clarendon, then Lord Lieutenant, at once sent his carriage to convey him to Dublin. On his arrival, he presented his excellency with the king's letters, announcing his appointment to the Chancellorship, and directing the Primate to deliver up the Great Seal. The ardent wish of James II. was to repeal the Act of Settlement, and to restore to the Catholic proprietors the properties that had been filched from them by the regicide parliament. Difficulties unnumbered, however, crossed his path; the intruders everywhere took the alarm, and Sir Charles Porter was instructed to let the public know that the king was determined to uphold the Act of Settlement—a policy in which Lord Clarendon entirely concurred.

The Chancellor was now allowed £1500 a-year, a grant highly approved of by the Lord Lieutenant, who wrote informing the Lord Treasurer of the necessity of his being liberally allowed, inasmuch as he had a position to maintain, and that the fees of the office were not worth £500 a-year, and that he had to take a house on the North Strand, for which he paid £100 a-year rent (Sir John Cole's house). On the 8th of May, 1686, Lord Clarendon again wrote to the Lord Treasurer, informing him that he had been only a few days away from the castle, and that on his return the Chancellor called at once to bid him welcome to town. His excellency, in this letter, appears deeply mortified at the conduct of the king in giving the command of the army to the Earl of Tyreconnell, who thenceforward, he writes, would be virtually Chief Governor of the country, and who had "already the Chancellor and the Solicitor-General to dine with him at his residence at Cartowne." At the close of 1686, Lord Clarendon was recalled, and Porter was at the same time displaced. On arriving in London, he obtained with difficulty an interview from the king, when he humbly asked what was the cause of his removal from the bench. The king replied that it was entirely his own fault, in consequence, it may be presumed, of his aversion to the repeal of the Act of Settlement; and His Majesty, giving him no further information on the subject, saw him no more. Of Sir Charles Porter's conduct when Chancellor, Lord Clarendon speaks in the highest terms: it may be that his character was then widely different from what it had been when he kept the eating-house in Holland, or when giving his drunken supper-parties in London. Be that as it may, Lord Clarendon writes that "Sir Charles Porter and Roger North were the only two honest lawyers he ever met."

Having retired from the Court of Chancery, in 1686, Sir Alexander Fitton became Chancellor, and Sir Charles returned to London, and resumed his practice at the English bar. He then recommenced his former habits of dissipation; his days were spent in pleading, his nights in revelry, and so he continued "living a jolly life, and carelessly borrowing money," until, steeped in debt, he was lodged in jail, where his clients still followed him for advice. Each succeeding year plunged him deeper into ruin, until at length his impoverished condition and reckless mode of living attracted the attention of men in power. James II. had by this time ceased to reign in England. The revolution was an accomplished fact, and the advisers of William and Mary could not forget that Porter had been degraded by James for refusing to assist in the repeal of the Acts of Settlement and Explanation. They knew of his great talents and embarrassed circumstances; "and pitying him (for at large, indeed, he was a very honest fellow), recommended him as a plausible man to be Lord Chancellor of Ireland, and he was accordingly selected and sent over." Arriving in Dublin, after the battle of the Boyne in 1690, he was appointed one of the Williamite Lords Justices, and so continued until the 4th of September following. Two Chancellors then held the Seals in Ireland at the same time—Sir Charles Porter under William III., and Sir Alexander Fitton under James II. It is not for us to detail the memorable incidents of the struggle between the sovereigns whom we have just named. They have been, and they will be, given by writers of the history of the nation, not of the individual. For us it will suffice to say that after many reverses the last stand of the Irish troops was made at Limerick; that succours long expected from France never arrived; that at length, on the 3rd of October, 1691, the beleaguered city capitulated; that the celebrated articles of the treaty of Limerick were duly signed and sealed; and that the signatories on the part of William were the Lords Justices, the Chancellor, Thomas Coningsby, and Baron de Ginkell, the commander-in-chief.

By article 1st, it was agreed "that the Roman Catholics of Ireland shall enjoy such privileges in the exercise of their religion as they did enjoy in the reign of King Charles II.; and that their Majesties, as soon as their affairs shall permit them to summon parliament in Ireland, shall endeavour to procure the said Roman Catholics such further security in that particular as may preserve them from any further disturbance on account of their religion."

By the 2nd article the Catholics were secured in all their estates and properties, such as they were rightfully entitled to in the reign of Charles II., as well as the free exercise of their callings and professions. Irish merchants resident in foreign countries,

and Irish officers absent in France on the affairs of the army, were to have the benefit of these articles.

By the 5th article it was provided that a general pardon should be granted for all attainders, outlawries, treasons, præmunires, felonies, &c., incurred since the beginning of the reign of James II. All private suits for trespasses during the war were forbidden, and arrests for debt and damages were not to be made for the space of eight months.

By article 9 it was solemnly provided that the oath to be administered to such Roman Catholics as submitted to the government of William and Mary was to be the simple oath of allegiance "and no other;" that is, that they were not to be required to take the oaths of supremacy and abjuration. We should add that these articles were subsequently ratified by William and Mary, and were, on the 24th of the following February, 1691-92, duly enrolled in the Court of Chancery. The treaty having been signed, no less than thirty thousand men, following their unhappy sovereign, passed over to France, and there formed themselves, under the banner of the French king, into that brigade whose heroic deeds have been the theme of the poet and the historian.

On the Sunday following the execution of the treaty, the Chancellor and Lords Justices attended divine service in Christ Church Cathedral. The preacher was Dr. Dopping, Bishop of Meath, who, taking for the subject of his sermon the late important events at Limerick, argued that no terms of peace ought to be observed with so perfidious a people. Sir Charles Porter was vehemently opposed to these views. He never ceased in the Chancery, the Privy Council, and the House of Lords, to uphold the articles of the treaty of Limerick, and to denounce the treachery of its infraction. An agitation, as violent as it was unjust, was in consequence got up against him; and, on the 30th September, 1695, articles, seven in number, were presented to the House of Commons, charging him with divers acts of misconduct. 1st, with the exaction of illegal fees; 2nd, with using powers above the law; 3rd, with the illegal imprisonment of one Elanthan Lunn; 4th, with unjustly removing the usher of the Court of Chancery; 5th, with making Irish papists justices of the peace; 6th, with favouring papists against Protestants when both were suitors in his Court; and 7th, with acting partially in causes pending before him. When those weighty charges were brought before parliament, a debate ensued, in which the Speaker of the House of Commons was loud in their support; but, on a division, it was voted that the charges were without foundation, and the impeachment was consequently abandoned. Irritated beyond measure at this defeat, the Speaker was proceeding that same night in his carriage along

Essex-street to the House of Commons. It so chanced that, following, but at a more rapid pace, the Chancellor was being driven in his carriage, in the same direction, to the House of Lords. His coachman (let us assume that the rivalries of the masters had descended to their men), as he sought to pass to the front, through the narrow way, was suddenly opposed by a no less formidable obstacle than the Speaker himself, who jumping, mace in hand, to the ground, and violently catching hold of the bridles of his opponent's horses, vowed that he would not permit himself to be run down in the street, neither by the Chancellor nor any other man. It is idle to tell how great was the excitement caused by this untoward *rencontre*. The public laughed or were indignant. The Houses took the part each of its own Speaker, and a quarrel, unseemly in its origin, and possibly serious in its consequences, was on the point of dividing the two great powers of the realm. But the Speaker reflected, and reflection brought regret. An accidental struggle had been tortured into a studied insult, and an apology tendered by him paved the way for reconciliation, and smoothed the ruffled dignity of the Upper House.

The first glaring infraction of the treaty of Limerick was caused by the English Parliament. Exercising their power of binding Ireland by Acts passed in London, they enacted that no person should sit in the Irish Parliament until he had taken the oaths of allegiance and supremacy, and had subscribed the declaration against transubstantiation. Commissioners also were soon after appointed for the purpose of confiscating the properties of those who had fought under the banner of James II. Sir Charles Porter, finding that his voice prevailed no longer in the councils, did what in him lay to mitigate those evils; and he caused Sir Richard Cox, Bart., one of the Justices of the Court of Common Pleas, a man of well-known clemency, to be appointed chief commissioner. Owing to this appointment it is, that a single Irish Catholic proprietor was left on the soil of Ireland. The burden of proving the guilt, as it was called, of high treason was thereby rendered more difficult; and we accordingly find that in almost every Catholic family whose properties escaped in the revolution of 1688, there exists amongst their muniments of title the following certificate:—"Upon search made amongst the pleas of the crown in the county of —— I do not find that A. B. of —— in the said county stands adjudicated for any treason by him committed against His Majesty or His royal Consort since their happy accession to the Crown."

Though softening the rigour of the laws then in force, Sir Charles Porter was powerless to prevent the enactment of others, passed in utter disregard of the treaty of Limerick, which he himself had signed. During the later years of his life he had

the mortification of seeing statute after statute passed, suppressing civil and religious liberty. Catholics were then excluded from the bar; they could no longer practise medicine, could not intermarry with Protestants, were incapacitated from being solicitors, traders, tutors, priests, members of corporate bodies; could neither impart education nor receive it, and were not permitted to ride a horse of greater value than five pounds; but these were only the beginnings of sorrows. In 1696, the Lord Deputy Capel, prime mover of all those acts, died, and was succeeded in office by the Chancellor, who was thereby precluded from further presiding in the Upper House, and whose influence as Chief Governor would, we may presume, have been exercised in favour of the unhappy Catholics had he been spared to the government of the country; but on the 8th of December, in the same year, he was struck down with an apoplectic fit, and died almost immediately, and was buried in Christ Church Cathedral.

A contemporary writer, who had known him well, thus speaks of his character: "He had the good fortune to be beloved by everybody. I have remembered this much of that gentleman, who underwent all the extremity of good and evil fortune, though the particulars whereof are not of my own knowledge, yet I had it from his own mouth in very serious conversation, all of which is worthy to be known, and the rather because he had the magnanimity and command of himself, that no surprise or affliction by arrests or otherwise could be discerned in his countenance or society, which was very exemplary, and in cases of the persecuting kind, as in cases of injustice and the malice of powers, he was heroical in perfection."

95. A. D. 1686.—SIR ALEXANDER FITTON. The history of this Chancellor is the history of a life in which success is chequered with much suffering—straitened circumstances, vast estates, loss of property, an accusation of forgery, the jail, exile, and death in a strange land—such are the pictures that succeed each other in the life of this remarkable man. The Gawsworth estates, in the county of Chester, had, long before the Conquest, been in the possession of the family of Fitton. Sir Edward, the second baronet, himself old and childless, and desirous that the broad lands which had come to him through so many generations should continue in his name and race, executed, in 1643, certain deeds by which the reversion of his estates was settled on his kinsman, Sir William Fitton, of Awne. Sir William was father of the subject of this memoir. Had those deeds not been executed, the property would have passed to the aunts of Sir Edward, the sisters of his father, one of whom was married to Lord Brandon, afterwards Earl of Macclesfield.

In time Sir Edward died, and Sir William entered into pos-

session. On Sir William's death, Sir Alexander succeeded, and remained in undisturbed possession for close upon sixteen years, when Lord Brandon came forward, and produced a will said to have been made by Sir Edward, by which the estates were devised to him in fee. The question arose as to the power of the testator to dispose by will of estates which he had previously put in settlement by deed. The argument on this point, however, came to an untimely end, as the validity of the deed was itself impugned, in consequence of the testimony of a wretch named Granger, who alleged that he himself had forged the signatures of one of the witnesses, and had done so at the instigation of Sir Alexander Fitton. If the signatures were forged, then the deed, of course, fell to the ground, and the will would stand. The Chancellor directed an issue to try the question, and when the matter came before a jury, it appeared that Fitton had lately become a Catholic; the reason of the jurors was perhaps swayed by their prejudices, and a verdict was given against the validity of the deed. Fitton was thereby branded as having procured the execution of a forged instrument. An ejectment was brought against him by Lord Brandon, who, claiming as devisee under the will, succeeded in obtaining a verdict. Sir Alexander was evicted from the ancient inheritance of the Fittons; Gawsworth passed into the hands of another race; and the wretched Granger, when too late, acknowledged that he had borne false testimony on these trials. Sir Alexander, meanwhile, was sent to jail—an appeal to a higher court by him, a Catholic, was little short of an absurdity; and it was not until two-and-twenty years had gone over that an opportunity offered to recover his property, and to clear his reputation. When James II. was king, an appeal was lodged, and though he had been in prison for so many years, he could still command the unanimous support of the Catholic nobility of England.

Sir Charles Porter having been forced to resign in 1686, Sir Alexander Fitton was selected by James for the Irish Chancery, and this appointment has been spoken of both by Hume and Macaulay as contemptible; but their information comes from a polluted source—from Archbishop King, who was instrumental in promoting the Revolution. That James II. should have appointed an incompetent man for his Chancellor in this country seems incredible, having regard to the other judges of his selection. Du Higg, a man of well-known anti-Catholic leanings, thus writes of those men: "A majority of the popish judges then appointed were *eminent* for legal knowledge and irreproachable private character. In their judicial decisions no authenticated act of cruelty and corruption remains on record." Of Keating, Chief Justice of the Common Pleas, the same author writes: "Connected with no party, and dignifying station by

despising it, he equally resisted the Protestant Clarendon and the Catholic Tyrconnell."

Amongst the varied scenes of Fitton's chequered life, not the least remarkable was that of his filling the office of Speaker of the House of Peers during the short and memorable session opened by James II., and held at the King's Inns, Dublin, on the 7th of May, 1689, and terminating the 13th of July following. That parliament having declared itself independent of the Parliament of England, repealed the Acts of Settlement and Explanation, and passed an Act in favour of civil and religious liberty. There, too, it was enacted that the Catholic clergy should receive their tithes from the members of their own communion, while the professors of other creeds were at liberty to pay their ministers, without being harassed by an insulting law requiring them to support in affluence the members of a hostile church.

The Acts of Settlement and Explanation repealed, the Catholic gentry were about to be restored to their estates. But this gleam of sunshine was of short duration. James was soon after forced to abdicate, and his agonized mind drew a parallel between his daughter, who sat upon his throne, and that Tullia whom her crimes and the genius of Livy have condemned to immortality. In quick succession came the disasters of the Boyne, Athlone, and Aughrim. Fitton followed the royal standard to Limerick. Meanwhile Tyrconnell lived not to witness the last stand of the Irish troops; he was struck down by an apoplectic fit on the 10th of August; and the Chancellor was appointed one of the Lords Justices in his stead. But his occupation was now gone—his sovereign was in exile—his faith was proscribed—like the vision on the bridge of Mirza, he stood alone in the world. His wife, who was daughter of Thomas Joliffe, of Cofton, county of Worcester, had died on the 7th of October, 1687, and was buried in St. Patrick's Cathedral, while his only daughter had taken the veil in a foreign convent. Of his future, the circumstances of his death, and of where he died, we have been unable to obtain any reliable information. He had been raised to the peerage by James II., with the title of Lord Gawsworth. The writ, however, being subsequent to 1688, the validity of the title was not recognised by the revolutionary government.

96. A. D. 1696.—JOHN METHUEN. On the death of the last Chancellor, the Great Seal was put in commission, Nehemiah Donelan, of St. Peter's Well, co. Galway, Chief Baron of the Exchequer, grandson of Chief Justice Donelan, being one of the Commissioners. The authorities in England appear to have taken time to consider on whom the prize should be bestowed; and their chief object would seem to be, who was the least qualified to fill so

important a post. John Methuen, who had been for many years envoy at the court of Lisbon, was then member for Wiltshire : though called to the bar, an able diplomatist, and well versed in the principles of international law, he was still said to be ignorant of the first principles of equity. An active supporter of William III., he delivered a speech in the House of Commons, in Sir John Fenwick's case, which brought him more immediately under the notice of the Crown. This memorable case, had it occurred in the reign of James II., would have stamped the last Stuart as the most tyrannical of princes ; but as it did occur almost immediately after the revolution, it is lightly touched upon by some, is explained away by others, and is forgotten by the multitude. The facts are shortly these :—From the time when William had signed the warrant for the massacre of the MacDonalds at Glencoe, the aversion of the Jacobites to that prince deepened each succeeding day. Negotiations were opened with the Court of St. Germain's ; James II. was invited to return to England ; and daily communications passed between him and his former subjects. Sir John Fenwick, deeply implicated in this conspiracy, was apprehended at New Romney on his way to France. Letters were found on his person, which put, it was said, his guilt beyond all doubt. Bills were sent up to the grand jury, on the sworn evidence of two witnesses, named Porter and Goodman. After a lengthened *ex parte* examination, true bills were found, and Fenwick was about to be put upon his trial on a charge of high treason. Lady Fenwick, however, induced Goodman privately to leave the country, and thus render the proceedings abortive. The Crown, seeing that they could not, as the law stood, successfully proceed without the testimony of two witnesses, determined to bring in a bill of attainder, and, upon the uncorroborated evidence of Porter, thus to obtain a conviction. The tory party was arrayed against the bill ; and many even of the whigs, who abhorred as unconstitutional this irregular mode of trial, were found voting against the government. It was argued that such a procedure was contrary to the principles of English law, repugnant to the common notions of justice and humanity, diametrically opposed to the last Act regulating trials in cases of high treason, and of dangerous consequences to the lives and liberties of the people. If this mode of trial were allowed, all the chances would be against the prisoner. The trial should be in accordance with the laws of the land : this mode by bill of attainder had never before been adopted by the Commons in a similar case, and if it were successfully persevered in, no British subject could know what was treason, what was the law of evidence, or how he was to be tried.

Methuen, on the third reading in the Commons, summed up

the arguments in favour of the bill, which was sent to the Upper House, where it was also passed, but by the small majority of seven. Forty-one lords entered a protest, couched in the strongest terms, against this decision; but Sir John Fenwick was brought to the scaffold. The Chancellorship of Ireland was now vacant, and Methuen's conduct in relation to Fenwick's case gave him strong claims on the ruling powers. Vernon, Secretary of State, accordingly wrote on his behalf to the Duke of Shrewsbury, and secured for him the appointment. At the same time he took care to remind the duke that by bestowing the Irish Chancellorship on him the government would have another place in its gift—that of ambassador at the court of Lisbon. Methuen, however, not content with the Irish woolsack, so managed that his son, Paul Methuen, succeeded him as ambassador at the Portuguese Court. To Vernon, this conduct seemed grasping in the extreme; but the Prime Minister had no reason, nevertheless, to regret the appointment he had made. Some of the correspondence of Paul Methuen relative to the proposed treaty with the king of Portugal, at a time when England was drifting into a war with France, is still in existence. Later (on the 16th of May, 1703) he concluded, in his capacity of ambassador-extraordinary of her Britannic Majesty, Queen Anne, a treaty offensive and defensive with Don Pedro. This treaty is signed by Paul Methuen, and was one of the last official acts of his at the court of Lisbon. Meanwhile his father, John Methuen, entered on the duties of Lord Chancellor of Ireland, and was sworn into office on the 31st of May, 1697, 9th William III. On the 15th of June following he presided for the first time in the House of Lords, as appears from the following memorandum:—"John Methuen, Esq., Lord Chancellor of Ireland and Speaker of this House, took the oaths and subscribed the declaration pursuant to the Act of Parliament made in England, entitled, 'An Act for abrogating the Oath of Supremacy in Ireland,' and appointing other oaths, and then took his place on the woolsack."

From that day until the close of the session the Chancellor was not even once absent from his post. On the 27th of July, 1697, the speech from the throne pressed on the House the necessity of encouraging Protestant strangers to settle in Ireland, especially as they may contribute "to the increase of the linen manufacture, which is the most beneficial trade that can be encouraged in Ireland." This speech was well received by both houses of the legislature. On the following Saturday, 21st of July, the Chancellor reported that the House did wait on the Lords Justices "to thank them for their excellent speech." It was then ordered by the House of Peers "that the Bill entitled 'An Act suppressing all friaries, monasteries, nunneries, and

other popish convents, and for banishing all the regulars of the popish clergy out of the kingdom,' be read for the first time." A few days later, on the 16th of August, the Commons having approached the bar of the House of Lords "with three courtesies," the Chancellor received from them an engrossed draft of an Act entitled, "An Act to prevent Protestants intermarrying with Papists." The parliament was then prorogued, and the Chancellor left for England, Lords Meath, Longford, and Blessington having been sworn in as Commissioners for the custody of the Great Seal. Returning shortly previous to the opening of parliament, which took place on the 27th of September, 1698, he again presided day after day as Speaker in the House of Lords. Dissolved on the 14th of June, 1699, parliament did not reassemble during the next five years. Methuen left Ireland again on the 20th of January, 1700, and returned on the 20th of July, 1701. In the month of December following he went to England and, conscious of his own deficiency, came back no more to his place in the Court of Chancery. Ignorant, at his arrival in Ireland, of the principles of equity, he does not appear to have turned his attention much to the judicial duties of his office. On the removal of his son, Paul Methuen, from the post of ambassador at the court of Lisbon, in the autumn of 1703, Sir John Methuen was once more appointed to that embassy, one of the first of his official acts being the treaty signed on the 27th of December, 1703. This was entered into between Her Majesty Queen Anne and Don Pedro, King of Portugal, whereby His Majesty agreed to admit into Portugal the woollen manufactures of England; while by the second article Queen Anne engaged to grant a differential duty in favour of the wines of Portugal, so that the duties on those wines should be always one-third less than on the wines of France. By this treaty the wine trade of England for one hundred and fifty years has been governed. Methuen was diligent at the embassy in Portugal until 1706, when he was seized with an apoplectic fit, and died almost immediately.

The loss of that able minister at a time when England was involved in a continental war is deplored by Bishop Burnet as a national calamity. Sir John Methuen was succeeded in his estate by his son Paul, then minister at one of the Italian courts, and afterwards Secretary of State for England; and he, dying without issue in 1757, was succeeded by his cousin, Paul Methuen, M. P. for Warwick, ancestor of the present Lord Methuen.

97. A. D. 1703.—SIR RICHARD COX. The family of Cox was for centuries resident in the south of England. Having come over to this country early in the seventeenth century, they

settled near Kilworth, in the county of Cork. The first of the family of whom we shall make especial mention is Captain Richard Cox, renowned for his great strength and courage. An adherent, in his early career, of Charles I., he espoused in latter years the cause of the parliament. Meanwhile he met a lady whose name was Catherine Patten, the widow of a brother officer, and daughter of Captain Walter Bird, a gentleman of position residing in the neighbourhood of Clonakilty. Her husband had been captain in the parliamentary forces, and was killed at the siege of Dungarvan. Mrs. Patten is said to have felt his death bitterly. Captain Richard Cox was then quartered in the town where she lived. He essayed to console her, and she was consoled. Time and the gallant captain made good their ground against unavailing memories—and at last the lady consented to cast in her lot with his. But their happiness was short-lived. In the glow of youthful affection they had parted in the morning; in the evening of that day he was brought back a lifeless corpse—the hand of the assassin had done its work. The widow lived a few months, and then died of grief, leaving but one child, who bore his father's name. Her eldest brother, John Bird, took upon himself the charge, such as it was, of his sister's son, and sent him to school at Clonakilty, in the county of Cork; but the father's and the mother's care were gone, and the little boy was left with only one book to acquire knowledge and to prepare for the battle of life. Yet he did acquire knowledge, and retained it wonderfully; and, as he had no books of his own, he was wont to occupy his time, when other children were at play, in transcribing his lessons from their books on scraps of broken paper. Thus whatever he learned became indelibly imprinted on his memory. In consequence of his uncle's death, he was removed from school at the age of ten years. But he had still another uncle, Captain Walter Bird, who was seneschal of several Manorial Courts in the county of Cork, under whom he first acquired that love for legal pursuits which so marked his future life. At sixteen years of age he was bound to an attorney, and before he was eighteen he had commenced practising in his uncle's court. He soon managed to lay aside £50 a-year, and with his little savings, together with the sum of £150, which he had received for some trifling property bequeathed him by his godfather, and with an annual rental of £25, arising out of some small tenements in the county of Galway, which the parliamentary government had awarded to him, in consideration of his father's services, he had the courage to cross over to England, enter his name at Gray's Inn, and become a law student.

Friendless in the great city, he applied himself diligently to the study of the law. It so chanced that, one day, a lecturer

of the Inn having been suddenly taken ill, Cox was called upon to fill his place; which he did, and did so well that he was admitted to the bar on the following Monday, several years in anticipation of the ordinary time. Sir Francis Derwentwater, too, was so captivated by his address, that he invited him to settle near him in the north of England; an offer which, nevertheless, though with much gratitude, he declined, and returned to Ireland in the same year. Soon after, he proposed for and was accepted by a young lady who was said to be entitled to a considerable fortune. They were married; and he found, when too late, that she was not in possession of one single farthing. In despair, he fled from his profession, took a farm near Clonakilty, and there remained for some years, entirely devoted to agricultural pursuits. At length, roused from his lethargy by an increasing family, he was forced to return to the bar, and was appointed Recorder of Kinsale in 1680. Educated from his earliest infancy to abhor the doctrines and practices of the Catholic faith, he was ever foremost in the Protestant ranks. In 1687, he was compelled by the Catholic reaction of that year to leave this country; and taking up his abode in Bristol, found his clients there become even more numerous than they had been at home. Nevertheless, in the midst of business, he could still find time to write a history of Ireland, which, though incorrect in many respects, and deeply imbued with religious fanaticism, must ever be looked on as a labour of priceless value.

The Prince of Orange, on his arrival in England, was at once joined by Mr. Cox, whose zeal for the revolution was unsurpassed. He was immediately offered the situation of secretary to the Duke of Schomberg, Commander-in-Chief of the forces of William in Ireland; but not understanding the French language, he declined the offer. When the king, however, resolved to go in person to Ireland, he cheerfully accepted the post of secretary to Sir Robert Southwell, principal Secretary of State, and took upon himself the whole care and burden of that office.

When the king marched to Dublin, after the battle of the Boyne, the subject of this memoir accompanied him, and drew up the celebrated proclamation known as the "Declaration of Finglas," from the fact that it was issued by William when he was encamped in the village of that name. Pardon was thereby extended to all common people who had served in the armies of James II., provided they returned to their dwellings, and gave up their arms, before the 1st day of August, 1690. After the surrender of Waterford, Mr. Cox was immediately made Recorder of that city; and the king, sensible of his faithful services during the campaign, and

willing to reward him to his satisfaction, commanded the Secretary of State to inquire what employment he would prefer. He, being at that time, on account of the great fatigue he had lately undergone, disposed to rest from much labour, and to devote himself to literary pursuits, chose the place of Second Justice of the Common Pleas, and was accordingly sworn into office on the 15th September, 1690.

On the 5th May, 1691, Cox was appointed governor of the county and city of Cork. One of his first acts was to issue a proclamation "forbidding papists to be out of their dwellings from nine o'clock at night until five in the morning, or to be found two miles from their places of abode, except in a highway or on market days." His many services to the Protestant cause, and his merciless hatred of the Catholics, rendered him the idol of the party of the revolution.

On the 5th November, 1692, he was knighted with the sword of state, in the Castle of Dublin, by the Lord Lieutenant, Lord Sidney, who, during his government, gave him all the marks of favour and esteem in his power, and afterwards, so long as his lordship lived, continued to him his friendship and good offices.

In the month of February following, he was nominated one of the Commissioners of Forfeitures, at a salary of £400 a-year. This appointment had been secured for him, as we have seen, entirely through the interest of the Lord Chancellor, Sir Richard Porter, and it was owing to their joint influence (for, spite of his bigotry, he was a lover of justice) that the last shred of landed property was preserved to the remnant of the old Catholic aristocracy. Sir Richard Cox hitherto, in every act of his life, was influenced by motives of impartiality. He had been reared in the hotbed of prejudice—he *was* prejudiced, but he was just, and he felt that it was but justice that his Catholic fellow-countrymen should receive the fullest protection insured to them by the articles of the treaty of Limerick; and through good report, and through evil report, he gave judgment to that effect. In the court, acting as a Commissioner of Forfeitures, "he was an incessant stickler for the articles of Limerick and Galway; and in the case of the Galway men he made so eloquent a speech, and insisted so strongly on the heinousness of breaking public faith, and on the ingratitude it would carry with it to the great deliverer, as well as to the good general who had granted these conditions, that he brought the rest of the Commissioners round to his opinion, and saved the old proprietors in many cases their estates."

Though thus strenuous in supporting the rights of Catholic claimants, he was yet opposed to allowing any share in the

government to those who refused to conform to the Church established by law. At length, his enemies, embittered by his upright conduct as Commissioner of Forfeited Estates, succeeded in obtaining his expulsion from the council-board, while the death of his friend Sir Charles Porter was a serious shock to his influence. From that time until 1701 he held no public employment apart from his ordinary business of Judge of the Court of Common Pleas. He accordingly turned his attention to the publication of books of some pretension, the first, on the conversion of the Irish, in which he endeavoured to convince them of the errors of the Roman Church; and the second, entitled, *Some Thoughts on a Bill for prohibiting the Exportation of Woollen Manufactures in Ireland to Foreign Parts*. Sir Richard beheld with amazement the representatives of the Irish nation prepared to destroy the rising manufacture of woollen fabrics in their own country—a manufacture which had flourished beyond all expectation since the introduction of the great factories in 1685. In Ireland every family spun its own wool, and wove its own cloth, and it was not until the revocation of the edict of Nantes that great public factories sprang into existence in this country. These by degrees undermined the very knowledge of the art in private families, where the unmarried females, from their constant employment, had acquired the name of spinsters. The mechanical contrivances introduced by the French refugees were made use of in the great factories; and the people whom the edict of Louis XIV. had driven from their own country brought into this the appliances which soon raised the linen and woollen manufactures to such a height as to threaten utter destruction to the English workmen, who were undersold in their own country by Irish traders. This was intolerable. Addresses were voted by the English Houses of Lords and Commons to the king, complaining of the oppression which was inflicted upon the industrious people of England by reason of the prosperous condition of the Irish woollen trade, and the king replied, that he “would do all that in him lay to discourage the woollen manufactures of Ireland”—and he kept his word. And now an Act of as base subserviency as could disgrace the annals of any civilised country was passed by the Irish Parliament, imposing on the exportation of their own woollen manufactures such an oppressive tax as utterly to shut them out from the markets of the world; and it was a commentary on this deplorable legislation that Sir Richard Cox published in 1701.

The dull monotony of a junior judgeship in the Court of Common Pleas was now, in 1701, about to close, and a brighter career to open on the subject of our memoir. We have already seen how the hardships of the circuits in early times bore heavily

on the bench and on the bar,—Judges lost their lives in those laborious duties; and now Chief Justice Hely, of the Common Pleas, the going Judge of the Spring Assizes, died on the Munster circuit. The friends of the English connexion in Ireland immediately laid hold of this opportunity for Sir Richard's advancement. The Lord Lieutenant (the Earl of Rochester), and several other peers, made interest with the king to obtain for him the vacant Chief Justiceship; and he was accordingly, on the 16th May, sworn into office, and in a few days after was appointed member of the Privy Council.

At the Spring Assizes of that year Cox was one of the Judges of the Connaught circuit, and found, on reaching Ballinrobe, then an assize-town of the county of Mayo, a summons from Queen Anne to repair forthwith to London, to advise Her Majesty on matters of great importance, especially in reference to the question whether it would be most for the interest of England to encourage the manufacture of linen or that of woollen fabrics in Ireland. He was most graciously received by the queen, and told her plainly that he considered "the most impolitic step ever taken by England was that lately taken to prohibit the exportation of woollen fabrics from Ireland, where the woollen trade was then destroyed." His opinion, though shared by many of the cabinet, was not followed, as it was borne down by the public prejudice in England. Nevertheless, the queen presented him with a sum of £500, to defray the expenses of his journey.

During his stay in England the removal of Lord Chancellor Methuen was first mooted. In 1703, Sir Richard returned to Ireland, and Methuen, having been appointed ambassador at the Court of Lisbon, resigned the Seals. Sir Richard Cox was appointed his successor.* He was sworn into office on the 6th August, and on the 10th issued writs for a new parliament. From the time of his return to England, even before his being sworn into office, Her Majesty's ministers corresponded with him about the drafts of bills sent over by the Irish Council, one of which was "A Bill to Recognise Queen Anne's Right and Title to the Crown." The Privy Council in England, nevertheless, in direct opposition to his expostulations, sent the bill back, on the ground that the Irish government would not be permitted to pass an Act either approving or disapproving of the queen's title—inasmuch as to do so would be tantamount to a declaration that Ireland was an independent country.

No Popery—then the cry in England—was taken up by the Protestants of Ireland; and the Chancellor, who had hitherto acted with unswerving consistency in supporting the articles of the treaty of Limerick, was now ranged on the side of religious intolerance, and was active and foremost in introducing the bill

to prevent the further growth of the hated religion. The other judges of the Irish bench were not opposed to the fastening of these fetters; and Sir Gilbert Dolben, one of the judges of the Court of Common Pleas, who was then in London, thus wrote of the proposed bill to the Lord Chancellor of Ireland, on the 20th January, 1703 :—

“My Lord Chancellor—That which hath been most in the thoughts of the ministry in England, on which they have spent more time than all the rest, is the bill to prevent the growth of popery. It lay some time before the council here before it was referred to the Attorney and Solicitor-General. When they had duly considered it, instead of making a report upon it (as they usually do on bills referred to them), they represented to the queen in council that it was *a bill of very great moment*, too big for them to determine upon, and therefore prayed that it might be referred to a committee of the council, which was ordered accordingly. This committee took a great deal of pains in considering and adjusting it; but when their amendments were reported, the council disliked many of them; so that it was recommitted to a committee who revised it with great care; and notwithstanding the committee consisted of persons who were of different parties, yet the bill was at length settled with great unanimity, and the amendments were unanimously agreed to, this night, upon a report made of them in full council. *But the noblest amendment is*, that all persons having any office, civil or military (which includes offices in corporations), shall be obliged to take the oaths and to receive the sacrament according to the usage of the Church of Ireland; and, in default of so doing, the office to be void. And whosoever shall continue to act in his respective office, after having neglected thus to qualify himself within the time limited by the bill (as amended), shall incur such penalties and disabilities as are imposed by our Test Act.”

In due time the bill was taken in charge by the Chancellor, and by him was brought through its several stages in the House of Lords, where counsel whose names will be ever memorable in history—Sir Stephen Rice and Messrs. Theobald Butler and Malone—were heard in opposition to that measure. But their appeals were vain: the speakers on behalf of the Crown replied, that “the Roman Catholics had nobody to blame but themselves; that all they had to do was to conform to the State religion.” The Chancellor made a report to the government of what was urged by the counsel at the bar; he then summed up all the arguments, and succeeded in carrying the bill, *doing justice to all parties!* By the provisions of this enactment (2 Anne, ch. vi.), it was made illegal for Catholic parents to send their children to schools in places beyond the seas, all places for

Catholic education in Ireland being closed. Children of Catholic parents were encouraged to become Protestants. The eldest son of a Catholic parent, becoming Protestant, might make his father tenant for life of such lands as he possessed. Papists could not be guardians; they were disabled from purchasing fee-simple estates, and their children could be taken from them. But these are only a few of the many enactments of that Act, too long to give in detail, and which it were better had they been long since forgotten. "The bill then passed without a dissentient voice, without the opposition or protest of a single individual" member of that subservient House which had a short time before destroyed the woollen trade of their own country—a trade too in which the people employed were almost exclusively of the Protestant faith! The penal laws were now in full force—laws of which Montesquieu observed, that "they were so rigorous, though not professedly of the sanguinary kind, that they did all the hurt that possibly could be done in cold blood."

In 1704 the Chancellor was sworn in as one of the Lords Justices. During their government a considerable number of troops were sent, as provided by Sir Paul Methuen's treaty, to Portugal; in carrying out which proviso the Chancellor was so remarkably active that he received the thanks of the Earl of Galway, the commander of the auxiliary forces in that kingdom. Sir Richard presided in the Upper House after the return of the Lord Lieutenant, in November, 1704. As a compensation for the loss of the woollen trade, the Chancellor suggested and obtained a law in England permitting the Irish to export their linens directly to the colonies; and to this enactment may be traced the success of the Irish linen trade during the early portion of the eighteenth century. In 1706 he was created a baronet, in reward for his services to the Crown.

Sir Richard Cox had now, for several years, enjoyed the royal favour. But "favour is deceitful," and fortune proverbially unsteady: and the known dislike of Sir Richard to the destruction of the woollen trade had procured for him many enemies at the court of St. James's. The Irish government, too, was openly insulted by the ministry; a Chief Baron and a Commissioner of Revenue in Ireland having been appointed without the authority of the Lord Lieutenant.

At length the Chancellor, on the 30th June, 1707, was removed from office, and Richard Freeman, a barrister of some merit, was appointed in his stead. Cox's old animosity to popery, as the Catholic faith was then styled, manifested itself in the two works which he wrote in his "hours of idleness;" one entitled *An Address to those of the Roman Communion of England*; and the other, *An Inquiry into Religion, and the Use of Reason in*

reference to it. In 1710 he was recalled to public life, and accepted, without hesitation, the Chief Justiceship of the Queen's Bench—a situation which, though lower in dignity than the woolsack, the ex-Chancellor perhaps preferred, because it entailed upon him less of the cares and turmoils of political strife. Besides, the weight of idleness was insupportable, and he was glad to return to his former associates. During the next four years his time was fully occupied in the Queen's Bench, in the Privy Council, and as a Judge of Assize.

Queen Anne died on the 1st of August, 1714. Immediately the chief judges were dismissed from the bench and Privy Council, and Sir Richard retired to his seat in the county of Cork, where he hoped, in the evening of his days, to take a little repose; but he was deceived; and on the 12th of November, 1715, was summoned from his retreat by the Speaker of the House of Commons, to give an account of some acts done by him as Chief Justice. It was hard to see the old man, then close on threescore years and ten, once loaded with honours, set out from his home, in the depth of winter, to defend himself from charges that had no other foundation than the heated imagination of those who had suspected that he, once the friend of the revolution, was now secretly a follower of the Pretender. To give in detail those several charges concerning matters never of much interest, and, except by the learned, long forgotten, would be entirely out of place here. Suffice it to say that the accusation of having inclined to the cause of the Pretender was groundless. Deadly in his hatred to the Catholic faith, he saw with unalloyed admiration the accession of King George; and the following extract of the charge (the last delivered by him) which he made at the Summer Assizes of 1714 to the grand jury of the county of Kilkenny will exhibit what his views, political and religious, were at the time:—

“Gentlemen, you ought to observe that this popery, which is so dangerous and spiteful to you, is irreconcilable; for the pretended infallibility will not suffer papists to reform any error, how gross soever, or make one step towards you; so that there can be no peace with Rome without following all her superstitions and idolatries, and without believing that monstrous doctrine of transubstantiation, which everybody knows to be false, as certainly as he knows anything in the world to be true.

“And as for the Pretender, we all know that he has many popish adherents here, and powerful confederates elsewhere. We know that Irish regiments in France are at his devotion, and we see what industry is used to recruit them, and send over more to his service. We know that the consequence of his coming to the crown would be the destruction of our most gracious queen (whom God long preserve!) and the ruin of the Protest-

ants. Our religion, lives, liberties, and estates, would be a sacrifice to his bigotry and revenge; and this island would be, in all probability, the most miserable heap of desolation in the world; and, therefore, it is the duty of all Protestants in Ireland, of whatsoever denomination, to unite in affection, and in the proper measures to preserve the government, the Established Church, and themselves, from the common enemy; and the reason is, because all is little enough to compass our safety; for the papists in this kingdom are more than double the number of the Protestants, and they are supported by a Pretender, and all those that are in his interest or of their religion."

Principles more opposed to Jacobite leanings than those propounded in this charge can hardly be imagined. In 1716 he returned to his residence near Clonakilty, where he died suddenly, and was succeeded in his title and estates by his eldest son.

98. A. D. 1707.—RICHARD FREEMAN. This lawyer never reached to any eminence at the bar. He had neither professional friends nor ability, and yet fortune—*longo post tempore venit*—smiled upon him.¹ His family had for many generations held a good social position in Gloucestershire, and at Batterford in that county he was born, in the year 1646. Entering the Middle Temple in his nineteenth year, he was called to the bar before he had completed his three-and-twentieth. Although he was amongst the class so well known as the "briefless," he was yet assiduous in his attendance in court; and turned his attention to the reporting—merely for his own instruction—of those cases which were then at argument. The notes he had taken by day he was wont to transcribe at night into a heavy note-book, which, however, was never published during his life. Legal reporting was then comparatively unknown, or perhaps we should rather say that it had been forgotten; for in the early years of English jurisprudence—as early as the reign of Edward II.—the reporters were paid by the Crown; and so they continued their labours down to the reign of Henry VIII., recording as they went along the arguments of counsel and the judgments of the courts. These arguments and judgments were delivered at first in Norman-French, and afterwards in Latin, both of which languages were unknown save by the learned. These venerable works are denominated the *Year Books*; and it must ever be a subject of regret that so salutary a custom was suffered to fall into disuse. James I., indeed, at the instance of Lord Bacon, appointed two reporters with handsome stipends for this purpose, but the wise institution was soon neglected; and, with this exception, from the reign of Henry VIII. to the present time, the task of reporting the pro-

¹ *Collins' Peerage*, vol. ix., p. 184, n.

ceedings of the Courts has been executed by private individuals, who, through haste or want of skill, have published oftentimes very crude and imperfect, and perhaps even contradictory, accounts of the same decision. Following the authorized *Year Books* come the reports of Judge Croke, ever since cited in a peculiar manner; by the name of those princes in whose reigns the cases reported in his three volumes were determined. Thus, *Croke Elizabeth*, *Croke James*, and *Croke Charles*. These were followed by the reports of Chief Justice Sir Edward Coke, a judge of infinite learning. Legal reporting in England from the death of Charles I. until the Freeman reports appeared had fallen low in public estimation; while in Ireland the art. was unknown until the close of the eighteenth century. Freeman, as a reporter, has been blamed by some and upheld by others; but his reports, or many of them, have been spoken of in the highest terms by such distinguished lawyers as Lord Mansfield,¹ and Lord Redesdale.² The inaccuracies—and there are occasional inaccuracies—are due, it is said, to the fact that his notebook was stolen by his servant after his death, and was published without the knowledge of his family. In 1707, Freeman was taken from the reporters' bench, and appointed Chief Baron of the Court of Exchequer in Ireland, and the following year was elevated to the dignity of Lord Chancellor of that country. Though a commoner, he presided as Speaker of the House of Lords, having taken the required oaths on the 1st of July, 1707.

The animosities of the two great parties into which the empire was divided were then of the most virulent type. While the whig and tory factions divided the nation, in Ireland the Protestant party were almost exclusively attached to the whigs. The expression "tory" was one of reproach, derived from the Irish word *thóra, thóra*, "give, give," equivalent to "stand and deliver," and was first employed in the reign of Charles II. in reference to certain bands of outlaws who professed the Roman Catholic faith, and harassed the English Protestants; it was afterwards applied to the partisans of James II., and was, in fine, assumed by those who took a high stand in defence of the Established Church and State. The "whigs," on the other hand, the origin of which name is referred by Bishop Burnet to the Scotch Covenanters, called "Whig-gamores," were the supporters of the revolution, and the most uncompromising enemies of the Catholic Church. Appointed by the whigs Chief Baron in 1707, and Chancellor in 1708, Freeman continued in office until his death in 1710. It appears from the Journals of the House of Lords, that in the month of April, 1709, the Chancellor was openly insulted by a person named Byrne, a man in an

¹ *Cooper's Reports* (page 15). ² III. *Vesey Junior's Reports* (page 580, n).

humble position in life, who was immediately arrested and brought to the bar of the House, where he was forced to apologise, and "humbly kneeling on his knees" to receive public reprimand for his outrageous conduct.

One of the last of this Chancellor's official acts was to extend the power of the benchers of the King's Inns Society, by making it compulsory on every barrister and attorney admitted to practise at their professions to give to the treasurer of that society bonds, with sufficient sureties, for the performance and observance of their rules, orders, and directions. His exertions while in office were continually directed to softening the asperity of the law, and ameliorating its spirit. But he was now beginning to descend into the vale of years. His intellect was shattered before its time, and the mind whose decisions had been marked by clearness and perspicuity was for several months previous to his death lost in an early dotage. He died on the 20th November, 1710, having been twice married—first to Elizabeth, daughter of Sir Anthony Kick, knight, by whom he left an only daughter, Mary, who was married to Walter Edwards, of Hans, in the county of Surrey. Their son, Thomas Edwards, took the name of Freeman, and was grandfather to Elizabeth, wife of the late Sir Thomas Heathcote, the fourth baronet of that name, and uncle of Sir William Heathcote, Bart., J.P. and D.L., of Hurseley Park, near Winchester M.P., for the University of Oxford from 1854 to 1868. By his second marriage with Anne, wife of Richard Marshall, Esq., the Chancellor left two children, Richard and Maria, both of whom died unmarried.

99. A.D. 1710.—SIR CONSTANTINE PHIPPS. James Phipps was one of those whose religious opinions caused them to emigrate to America in the reign of Charles I. The youngest of his sons was William, who, from his earliest years, displayed great aptitude for the mathematical and physical sciences. Following the bent of his tastes, William Phipps went to sea, was rapidly promoted, and in 1685 took the command of a vessel which sailed in that year to the West Indies. He there heard from the Indian many legends of ships that had been lost in those seas, and how a mighty Spanish galleon was caught in a hurricane many years before, and sank with her priceless treasures. Phipps pondered over what he had heard. Could it be that in the spot pointed out to him untold wealth lay concealed? He was not wealthy, and to descend into the world of waters to whose depths the light of the sun never reached would require appliances far beyond his reach. The diving-bell, just discovered, was expensive; but his resolution was fixed, and he set sail for England, where he laid his plans before James II., and succeeded in obtaining from that monarch the assistance of a war vessel, "The

Rose of Algiers," carrying eighteen guns and ninety-five marines. Men of science joined his expedition. After a perilous voyage he arrived at his destination, and proceeded to put his long-matured plan into execution. The lost ship was discovered. Gold and silver and precious stones were raised from its deep bed; and of silver alone there were eight-and-thirty tons. He then, in daily apprehension of a mutiny on board his vessel, set sail for England, where he arrived in the month of August, 1686, having under his command a cargo taken up from the bottom of the sea, and worth, it was said, over £300,000. The whole nation were loud in his applause, and they marvelled much at an adventure which to them appeared as romantic as that of Jonas the prophet. £16,000, besides a golden cup worth £1000, presented to his wife, was his pecuniary reward. He was knighted, too, by James II., and was afterwards appointed by William III. Governor-General of New England. But fortune is fickle. Phipps sought to wrest Canada from the grasp of Louis XIV., and failed. He then returned to England, where he was arrested, at the suit of the Collector-General of Customs, for £20,000; and though he was discharged in less than an hour, the proud spirit of one accustomed to rule could not brook the insult. A rapid fever set in, and carried him off on the 18th February, 1694. His remains were consigned to the grave in the church of St. Mary's, Woolnoth, where a mural inscription tells other generations of the achievements of "the founder of the family of Phipps."

Sir William left at his death an only son, Constantine, who, in 1682, had entered his name as a law student on the books of the Middle Temple. It appears that for a short space he left the ranks of the working barristers, and proceeded to America, where he obtained the appointment of agent for Massachusetts Bay. On the death of his father, however, he returned to England, and devoted his entire time to his professional avocations. Though reared in the stern principles of the Puritans of New England, he appears to have almost entirely associated himself with the tory party. In 1696 he was counsel for a man named Rookwood, who was deeply implicated in a conspiracy to assassinate William III. Rookwood was found guilty and executed.

The case, however, which brought him to the foremost ranks of the tory bar was the trial of Dr. Sachaveril, a priest of the Church of England, intolerant of dissent, and an advocate of the doctrine of non-resistance to the authority of the prince, whom he looked upon as reigning by divine right. Jacobite in all his teachings, his sympathies were enlisted on the side of the Pretender, and against that of the revolution of 1688. These, too, it was suspected, were the principles of Queen Anne, who looked with scorn on the son of Princess Sophia (afterwards George I.),

who had no other title to the throne than that which the Whig majority of the houses of parliament had conferred upon him.

Dr. Sacheveril advocated those doctrines in his sermon preached before the judges at the Derby summer assizes of the year 1708. The majority of the House of Commons voted this sermon scandalous and seditious, and they further directed that he should be impeached for those his high crimes and misdemeanours. Arrested by the Serjeant-at-Arms, the Whig Government refused to admit him to bail, and instructed the Solicitor-General, the Recorder of London, and other eminent Whig counsel, to conduct the prosecution. On the other side were arrayed Sir Simon Harcourt, Mr. Constantine Phipps, and the whole strength of the Tory bar. The day for the trial was fixed, and the prisoner was transferred from the custody of the Serjeant-at-Arms, the officer of the House of Commons, to that of the Usher of the Black Rod, the officer of the House of Lords, who at once admitted him to bail. Though Sir Simon Harcourt had nominally conducted the defence, yet the working of it was the labour of Mr. Phipps, whose zeal in the cause of his client soon raised him to the highest place in the affections of the Tories.

The trial lasted from the 9th February to the 2nd March, 1709, when the defendant was found guilty, and sentenced to refrain from preaching for three years; and his sermons were directed to be burnt by the hangman, in the presence of the Lord Mayor of London, which was accordingly done. Phipps's speech on that occasion enlisted the multitude in favour of the Church; and it is to Dr. Sacheveril's trial that the fall of the Whig ministry, in 1710, may be traced.

The Tory administration was then installed in office, and Constantine Phipps appointed Lord Chancellor of Ireland. A supporter of "the Church," he found her hemmed in between two contending parties—the Catholics and the Dissenters; and to persecute both, and to exalt his own faith, was the policy of the new Chancellor. Though a supporter of the Pretender, he feigned to detest the doctrines of the Church of Rome, and vied with the most dismal fanatics in inflicting wrongs on the unhappy members of that proscribed faith. In the year 1712, the Chancellor and Dr. Vesey, Protestant Archbishop of Tuam, were, in the absence of the Lord Lieutenant, constituted Lords Justices. There had long existed in the town of Galway a Franciscan nunnery, which was now closed by the order of the Lord Justice Phipps. The nuns, or many of them, after a long and weary journey, over roads then untraversed by a public conveyance, found refuge in the city of Dublin, under the care of Dr. Byrne, Catholic Archbishop of that see. They had scarcely arrived when they were arrested in the habits of their order, and committed to prison, and Dr. Byrne was immediately taken into

custody. Their Excellencies then addressed, through their secretary, a communication to the Mayor of Galway, requiring the suppression of all the nunneries within the town. It may be that those persecuting wrongs were inflicted by the Tory faction to bid for popularity amongst the Dissenters, on whom the supporters of the Church looked with greater alarm than on the Catholic Pretender, whose chance of overturning the establishment was perfectly hopeless.

On the 27th of October, 1713, the Chancellor and the Archbishop ceased to be Lords Justices. The Irish executive then became Jacobite almost without reserve. A book was published at this time, entitled *The Memoirs of the Chevalier de St. George*, in defence of the legitimacy of the Pretender, and of his title to the crown whenever the death of Queen Anne should occur. A bookseller named Lloyd had published advertisements of his intention to reprint the book, "exhorting all good people to subscribe to it." For this he was indicted, and bills were found against him by the grand jury, in Michaelmas Term, 1712; notwithstanding which he went about at large until July, 1713, when the Chancellor wrote in his favour to the queen, recommending him, at the same time, as a fitting object of the royal clemency. Forthwith the Crown entered a *nolle prosequi*, and the proceedings terminated. But the Irish House of Commons unanimously resolved—"1st. That *The Memoirs of the Chevalier de St. George* was a seditious and treasonable libel; 2nd. That the remiss prosecution of Lloyd was an encouragement to the papists and other friends of the Pretender; 3rd. That Sir Constantine Phipps, in representing Lloyd as an object of mercy, in order to obtain a *nolle prosequi*, acted contrary to the Protestant interest; 4th. That an address be presented to the queen to remove Sir Constantine Phipps from the place of Lord High Chancellor, for the peace and safety of Her Majesty's Protestant subjects."

The Convocation of Bishops, on the other hand, resolved that the Chancellor should not be left to the resentment of the House of Commons, and used their utmost endeavours to get up a contrary address in the House of Lords, where it was resolved, "That Chancellor Phipps had in his several stations acquitted himself with honour and integrity."

The death of Queen Anne in 1714, followed by the proclamation of George I., brought the hopes of a Jacobite succession to an end. Sir Constantine Phipps was removed from the Court of Chancery, and the nation was delivered into the hands of the Whigs. On the 20th of October the king was crowned, and on the same day the University of Oxford paid a marked compliment to the Tory party, by conferring the degree of Doctor of Civil Law on Sir Constantine Phipps, with particular marks of

honour and esteem. He had now returned to practise at the English bar, and was soon recognised as the leader of the Tory party.

In 1722, Atterbury, Bishop of Rochester, who had been implicated in a conspiracy to bring about the restoration of the Pretender, was seized and committed to the Tower, charged with high treason. After remaining in prison for a fortnight, Sir Constantine Phipps applied to the Court of the Old Bailey for his discharge; but the motion, after much deliberation, was refused, with costs. Immediately, churchmen throughout the whole kingdom were filled with indignation at the imprisonment of a bishop—an act which was, they said, an outrage on the Church of England. The case, however, came on to be heard before the House of Lords on the 9th of May, 1723. A bill had been brought in for the purpose of depriving him of his episcopal office, and banishing him from the kingdom for ever, and Sir Constantine spoke with great vigour, as he was wont to do, for the accused. The bill, however, passed, and the unfrocked prelate, deprived of his see, was conveyed, by order of the Crown (George I.), to Calais, where, with tears in his eyes, he met his former leader, the great Tory chieftain Lord Bolingbroke, on his way back to England.

This was the last case in which Sir Constantine was engaged as counsel. He died on the 9th of October, 1723, having through his active life been the unshaken friend of the House of Stuart, and the Jacobite party long mourned over his untimely end. His memory was in after times aspersed by one of Ireland's patriots, the Right Hon. John Philpot Curran, who, when professing to admire the principles of the revolution of 1688, thus spoke of this Chancellor:—"In the latter part of the reign of Queen Anne, an infernal conspiracy was formed by the then Chancellor, Sir Constantine Phipps, to defeat the *happy* revolution, which for three generations has shed its influence upon those realms: fortunately it was defeated by the virtue of the people."

Sir Constantine Phipps left at his death one son, William (afterwards married to Lady Catherine, daughter of James, third Earl of Anglesea, *infra* p. 125). This William was father of Constantine, who was raised to the peerage in 1768 by the title of Earl of Mulgrave.

100. **A. D. 1714.**—**LORD MIDDLETON** (Alan Brodrick). The family of Brodrick emigrated to this country from England at the close of the reign of James I., and is descended from a remote ancestor of the House of Hapsburgh. During the Great Rebellion and immediately preceding the death of Charles I., Captain Brodrick allied himself to the Royal cause; and his

son, Sir John Brodrick, was rewarded, after the Restoration of Charles II., with a grant of Chore Abbey, a stately edifice of great strength in the county of Cork, which, built in the old times by the Knights Templars, and from them passing to the Knights of St. John of Jerusalem, was finally suppressed at the Reformation. Sir John was also created Lord of the Manor of Middleton, and was appointed one of the commissioners for the settlement of the affairs of the country prior to the Act of Settlement. His son Alan Brodrick, one of the most advanced of the Whig party, was, in the year 1703, elected Speaker of the House of Commons, and in 1704 appointed Solicitor-General for Ireland; from which office he was soon after removed, on account of opposing the government of the Duke of Ormond in passing certain bills through the Houses of Parliament. In 1709 he was Chief Justice of the Queen's Bench; but that office being then held during pleasure, he was removed by the Tory administration on their coming into power. Opposed to the insulting privileges of the clergy of the Established Church, he claimed for the Dissenters an entire immunity from the compulsion of receiving the sacrament as a condition precedent to entering upon places of emolument.

In the last year of the reign of Queen Anne, the House of Commons, by their election of Brodrick as Speaker, demonstrated that the majority were against the Tory administration of Bolingbroke, and in favour of the succession of the House of Hanover. Foremost in the opposition to the claims of the Pretender was Brodrick, who, when the time came for George to ascend the throne, was appointed Lord Chancellor of Ireland, and Member of the Privy Council.

In 1716, the Chancellor's conduct in reference to the dignity and independence of the Irish House of Lords was such as to render his name odious in both houses of parliament. In that year, the once well-known case of *Hester Sherlock v. Maurice and John Annesley* occurred. It was an action of ejectment on the title, brought in the year 1709, in the Court of Exchequer, to recover certain lands situate in the county of Kildare; and a verdict was had for the defendants, who obtained judgment on that finding. From this order the plaintiff appealed to the Irish House of Lords, which reversed the decision of the court below; and judgment was then entered for the plaintiff. The defendants' counsel, however, advised an appeal to the English House of Lords, where the judgment of the Irish peers was reversed, and that of the Court of Exchequer established. And now the two highest courts in both countries were in actual antagonism. Forthwith a writ was directed to the sheriff of the county of Kildare, by the officer of the Irish House of Lords, commanding him to put the plaintiff, Mrs. Sherlock, into possession of

the lands. The writ was obeyed, and a return to that effect was made. Thereupon the Chief and the other Barons of the Exchequer issued a counter order, also directed to the same sheriff, requiring him to make restitution of the premises to the defendant; and further, they imposed a heavy fine upon him for presuming to obey the writ of an inferior Court, when the Court of Ultimate Appeal in England had otherwise decided.

A statement of facts was then drawn up by the Lords in Dublin, and forwarded to the king, in which they complained at great length of the conduct of the English House of Peers, and having insisted on the constitutional privileges of the Irish Parliament, relied on their connexion with the Crown of England, and on the prerogative of that Crown, which recognised in times past those rights which it was now sought to invade. We regret that space will not permit us to give fully this interesting and lengthened document, which concludes as follows:—"Having thus with all humility laid before your Majesty your undoubted power and prerogative within this your kingdom of Ireland, the immediate dependence of the same upon your Majesty's crown: the right your Majesty has to hold parliament here as in Great Britain, and of finally determining therein all matters that entirely relate to this realme, together with the great encroachments that have of late been made on your Majesty's prerogative and the rights of this your parliament, and the illegal unprecedented proceedings of the Lord Chief Baron, and others the Barons of your Majesty's Court of Exchequer, whereby they have endeavoured to support those encroachments, with the evil consequences of such proceedings, in case that a speedy and effectual stop be not thereunto put, we most humbly hope that all these things, being duly considered and weighed, with your Majesty's usual wisdom, will abundantly justify us in the methods we have taken, as well for the supporting of your Majesty's royal prerogative as the preservation of the just rights and liberties of ourselves and our fellow-subjects."

Can it be believed that from the resolution thus to appeal to the king there were eight dissentients, who preferred sacrificing their own independence at the shrine of English rule? Their names are headed by that of the Chancellor, who was created a peer in the next year, A. D. 1717. This remarkable case was followed immediately by an Act of the English Parliament, which decreed that—"Whereas attempts have been lately made to shake off the subjection unto and dependence upon the imperial Crown of the realm, and whereas the Lords of Ireland, in order thereto, have of late, against law, assumed to themselves a power and a jurisdiction to examine and amend the judgment and decrees of the Courts of Justice in Ireland: therefore, &c., it is declared, and enacted, &c., that the said kingdom of Ire-

land has been, is, and of right ought to be, subordinate unto, and dependent upon, the imperial Crown of Great Britain in Parliament assembled, which hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the people of the kingdom of Ireland. And it is further enacted and declared, that the House of Lords of Ireland has not, nor of right ought to have, any jurisdiction to judge of, affirm or reverse any judgment, &c., made in any Court within the said kingdom," &c. Thus was the Irish parliament degraded to the rank of a provincial assembly.

On the 27th of August, 1719, the Lord Chancellor transmitted to the English government for its approval the draft of a bill for the further and more effectual prevention of the growth of Popery. This bill contained a clause of so savage a nature against the Catholic clergy, that the whole brutal measure was suppressed in England, and thus fell to the ground. The Lord Chancellor—as he was an Englishman, the entire disgrace of the proposal does not rest on the shoulders of the Irish members of the Privy Council—urged the mutilation of the priests as the best and most refined of the punishments which the piety and the cruelty of the Irish government could in their ingenuity devise! The delicacy of the reader, and perhaps of the writer, will permit us to draw a veil over his infernal suggestion.

Though Lord Chancellor of Ireland from 1714 to 1725, he continued during those years a member of the House of Commons of England.

His lordship was married, first to Catherine, daughter of Redmund Barry, Esq., of Rathcormick, in the county of Cork, and by her had one son, St. John Broderick, member of parliament for the city of Cork. By his second wife, Alice, daughter of Sir Peter Courthorpe, he had two sons, of whom the eldest, Alan, was his successor in the peerage. By his third wife, Anne, daughter of Sir John Trevor, Master of the Rolls in England, he had no children. Failing health caused him in 1725 to retire from office, and his death took place in England in the following year. We are informed that "his Court was an enlightened school, in which a mild and benevolent magistrate, by practice and example, animated the bar to legal skill;"¹ but we must take leave to doubt that benevolence and enlightenment are correctly attributed to the man who was a supporter of such measures as we have above described.

101. A. D. 1725.—RICHARD WEST. Hugh Boulter was at this time Protestant Archbishop of Armagh, and for nearly twenty years had been the confidential agent of the British government in Ireland. By him were appointments suggested

¹ *Du Higg*, p. 277.

to the Crown, and through him were they made. There was an exception, however, to this rule in the case of Thomas Cartor, Master of the Rolls, who was an Irishman and a member of the Irish bar, and whose appointment, Protestant though he was, filled with indignation the mind of the most reverend Primate, who thus writes on this subject to the Duke of Newcastle, then Secretary of State :—

April 29th, 1725.

“MY LORD,—I have by this post written to my Lord Townsend (colleague of the Duke of Newcastle), explaining what a blow is given to the English interest here by the appointment of an Irishman as Master of the Rolls, and the uneasiness we are under at the report that a native of the place is likely to be Lord Chancellor. I must request of your Grace, as I have of his lordship, that you would both use your interest to have none but an Englishman put into the great places here for the future, that by degrees things may be put into such a way as may be most for His Majesty's service.” Richard West, an English barrister and friend of the Primate's, was then selected for the Irish woolsack. His only previous qualification was that he was a pamphleteering partizan.¹ During the short time that he sat on the Irish bench, he appears, nevertheless, to have given much satisfaction.

On the 7th of September, 1725, parliament was opened with the usual formalities, and the Chancellor took his seat, for the first time, as Speaker of the House of Lords. Writing to the minister, on the 9th of September following, the Primate says that “there is a perfect agreement between me and the Lord Chancellor, which I daresay will continue, not only on account of our old friendship, but out of the earnest desire we both have of promoting His Majesty's service. I am thoroughly sensible of what assistance he will be to me in so doing, and I shall not be wanting in my endeavours to assist him.”

West had been but a year and five months in office when he was attacked by a fever of the most malignant type. Hopes were entertained to the last of his recovery; and on the 2nd of December, 1726, the day before his death, the Primate writes to Lord Cartaret, to say that “the Chancellor was blistered last night, and is now better.” He died, however, that day, and was buried in St. Anne's Church. Immediately on his death, the Primate writes to the Lord Lieutenant, deploring his loss :—“The Chancellor,” he says, “died to-day, about two in the afternoon. His death is very much lamented by all here, but especially by the lawyers, whose good-will and esteem he had entirely gained, by his patience, civility, and great abilities; as he was an old friend and acquaintance of mine, I am very much

¹ Boulter's Letters, 30, 33, 84.

troubled at his loss. I am also heartily concerned for the terrible blow to his family. I earnestly wish that his place may be filled by one that may give the same satisfaction that he has given."

Few of his decisions have come down to our day. Some of them are reported in Howard's *Poperies Cases*, but they are of so uninteresting a nature as to render their repetition here unacceptable to the reader. In one of them, he was so much pained at the harshness of the proceedings taken under the shadow of those penal laws, that, although compelled to decide with a Protestant plaintiff, in a suit to recover possession of certain premises in Westport, in the county of Mayo, for no other reason than because the unhappy defendant was a papist, he refused to give the plaintiff his costs. The Chancellor was author of several works, entitled respectively, *Discourses on Treasons and Bills of Attainder*, which passed through two editions; *An Inquiry into the Manner of Creating Peers*, which also ran through two editions; and *The Hecuba*, a Tragedy. Some of his papers are likewise to be found in the *Freethinker*, a periodical belonging to the early part of the eighteenth century.

Through the exertions of the Primate, a pension of £250 a-year was granted from the State to the Chancellor's widow, who was daughter of the Right Rev. Dr. Burnett, Bishop of Sarum, in England.

102. A. D. 1726.—LORD WYNDHAM. Thomas Wyndham, grandson of Sir William Wyndham, who had been one of the Judges of the Court of Common Pleas in England in the reign of Charles II., was called to the bar in 1690, and appointed Chief Justice of the Common Pleas in July, 1724. Deeply versed in the mysteries of the law, and thoroughly conversant with the state of Irish politics, he was recommended by Primate Boulter to the king, as the fittest to fill the vacant seat on the woolsack. George II. had now (we speak of 1727) ascended the throne. In his electoral dominions in Germany the Catholic religion was freely tolerated, and was not subject to those penalties which were so acceptable alike to the parliaments of England and of Ireland. The hopes of the Irish Catholics were therefore excited: they expected a similar toleration; and a congratulatory address was presented by the leading members of that religion to the Lords Justices, of whom the Chancellor was one. The address was read by Lord Delvin, and a reply was expected; but their Excellencies, turning away, left the chamber, without either vouchsafing an answer or bowing in acknowledgment, and the address was never forwarded to the king; nay more, the extraordinary proceedings we have described were immediately followed by the Act of 1 Geo. II.,

ch. ix., sec. 7, which entirely disfranchised the Catholics, and deprived them of the last vestige of civil rights. But not "Papists" only, but the very converts from popery, were objects of suspicion. If one statute prevented a papist becoming a solicitor, another statute excluded from the bar those Protestant converts from popery who had not yet been seven years converted. "We must be all undone," writes Primate Boulter, "if the profession of the law get into the hands of the converts, where it has already got, and where it every day gets more and more."

On the 3rd of February, 1728, the Chancellor, surrounded by many peers, then resident in Dublin, proceeded with great pomp to lay the foundation-stone of the new houses of parliament, in College-green. On the 5th of October, 1731, he was raised to the peerage, by the title of Baron Wyndham, of Finnglas; and on the same day he presided in the Upper House, when the terrors of popery were again brought up to disturb the repose of the legislature. It was complained that, "in spite of the laws in force, popery was on the increase, and that the monasteries were multiplying everywhere." A commission was in consequence issued, directed to the sheriffs of the counties of Galway and Mayo, for the purpose of instituting an inquiry into the state of the proscribed religion within those counties. The inquisition was made, and the sheriffs presented their returns. Both those documents, of remarkable interest, inform us concerning the several monasteries then inhabited, though now in ruins. Those returns were followed by the immediate disarming of the whole Catholic population. Lord Wyndham again, in 1734, presided in the Upper House, when enactments, not only against popery, but against converts from popery, were passed.

In 1739 the new parliament house was completed; and it is recorded that in the same year the trial of Lord Santry, for the murder, in a drunken brawl, of a poor man at a fair, took place within its walls. The vanity of the writers of that day, by whom the event is recorded, is manifested in the pompous description given of the ceremonial—how the Chancellor proceeded in state from his residence in Stephen's-green; how he entered the House of Peers; and how he was received by their lordships standing as he passed. Lord Santry was found guilty, but was afterwards pardoned.

In the autumn of the same year, the Chancellor, for reasons now unknown, resigned the seals; and the last years of his life were spent in England, where he died without issue in 1745, when the title became extinct.

103. A. D. 1739.—LORD JOCELYN (Robert Jocelyn). The remote history of this family extends back through a thousand

years. Robert Jocelyn was called to the bar in 1706, became Solicitor-General for Ireland in 1727, and Attorney-General in 1730. On the retirement of Lord Wyndham from the bench in 1739, his professional position, and intimacy with Lord Hardwicke, secured for him the post of Lord Chancellor of Ireland. Remarkable for historical research, he laboured to disentangle the annals of this country from fable and falsehood; and in doing so, he became the patron and friend of Harris, the learned editor of Sir James Ware's *Antiquities*.

In 1743 the Chancellor was raised to the peerage by the title of Baron Newport. The rumours of an intended French invasion in 1744 gave rise to a fresh ebullition of rage against the Catholics. But in the following year the rebellion broke out in Scotland, and the government, apprehensive that the cause of Prince Charles Edward would find followers in Ireland, resolved to reverse its previous system, and to calm public feeling by a policy of conciliation. With this end in view, the Earl of Chesterfield was sent over as Lord Lieutenant. This popular nobleman restored tranquillity, and the Catholic altars were once more surrounded by unmolested Catholic congregations. But the insurrection in Scotland was crushed at the battle of Culloden; and as there was now no longer need of a soothing policy for Ireland, Lord Chesterfield was recalled, and the government was entrusted, on the 26th of April, 1746, to the Primate and the Chancellor as Lords Justices.

In 1749 George Stone was Primate, when a bill was introduced into the Commons to apply the unappropriated surplus of taxation to the liquidation of the National Debt; and the subject gave rise to warm and protracted discussions. The Earl of Kildare, in consequence, presented to the king in person a bold address, complaining of the arrogance and illegal and corrupt interference in public affairs of Primate Stone and of Lord George Sackville, son of the Lord Lieutenant, the Duke of Dorset.

The English ministry were surprised at what they considered the boldness of this proceeding; and the Earl of Holderness thus writes on the subject to the Chancellor:—

“MY GOOD LORD CHANCELLOR,—I am not a little concerned that the Earl of Kildare should take so bold a step; one that he may repent hereafter. He was but ill-received, and very coolly dismissed by the king, as indeed the presumption well-merited; for why should His Majesty receive any remonstrances concerning his kingdom or government, but from the proper ministers, or through the usual channels, namely, both houses of parliament? I desire my compliments to the Lord Primate, and wish him success in all laudable endeavours, *for poor Ireland*.”

The address of the Earl of Kildare to the Crown was, nevertheless, productive of good, and the alarmed government sent

over Lord Hartington as Lord Lieutenant to replace the Duke of Dorset. He had not been long in Ireland, however, when he had to return to England, where, instead of counselling, as usual on such occasions, a union of Protestants against the "common enemy," he recommended harmony amongst "all His Majesty's subjects." Lord Chancellor Newport—by his higher title, lately conferred upon him, of Viscount Jocelyn—and the Earls of Kildare and Besborough, were then appointed Lords Justices. A brighter day was about to dawn; bigotry was on the wane, and liberal principles began to be appreciated. To this period are to be traced the first aspirations after religious liberty—the first germs of that great Catholic movement which in an approaching generation was to assume such gigantic proportions.

The leisure hours of the Chancellor were spent in antiquarian research, and his lordship, it would appear, succeeded in awakening similar tastes in others. Amongst these were the Earl of Clanricarde; Robert Lindsay, one of the Justices of the Court of Common Pleas; John Lodge, author of the *Peerage of 1754*; Harris, the editor of *Sir James Ware*; and Mr. Donelan. In 1750 we find the Earl of Clanricarde engaged in writing *The Letters and Memoirs of Ulick, Marquis of Clanricarde, Lord Lieutenant of Ireland during the Rebellion of 1641*. In compiling this work, which throws so much light on that dismal period, the Earl of Clanricarde applied to the Chancellor for his assistance, when he was favoured with the following reply, bearing date the 24th June in that year:—

"MY LORD,—I congratulate you with the public on your lordship's resolution to print the valuable remains of your truly noble and excellent ancestor the Marquis of Clanricarde, whose memory is held in the highest esteem by all who are acquainted with the share he had in the transactions of his time; for my own part, I have so great a veneration of his character, that I think myself happy in being in any way able to contribute towards making it more universally known and admired. Your lordship may freely command a copy of all the marquis' letters and papers in my possession. . . . I have likewise in manuscript a short comparative character of two great Irishmen of that age—the Marquis of Ormond and Marquis of Clanricarde. I inclose it to your lordship, that you may make what use of it you think proper.

"MY Lord, your lordship's most obedient servant,
"JOCELYN."

The Lord Chancellor was twice married: first to Charlotte, daughter and co-heiress of a Mr. Anderson, of the county of Worcester; and secondly, to the widow of Lord Rosse. Dying

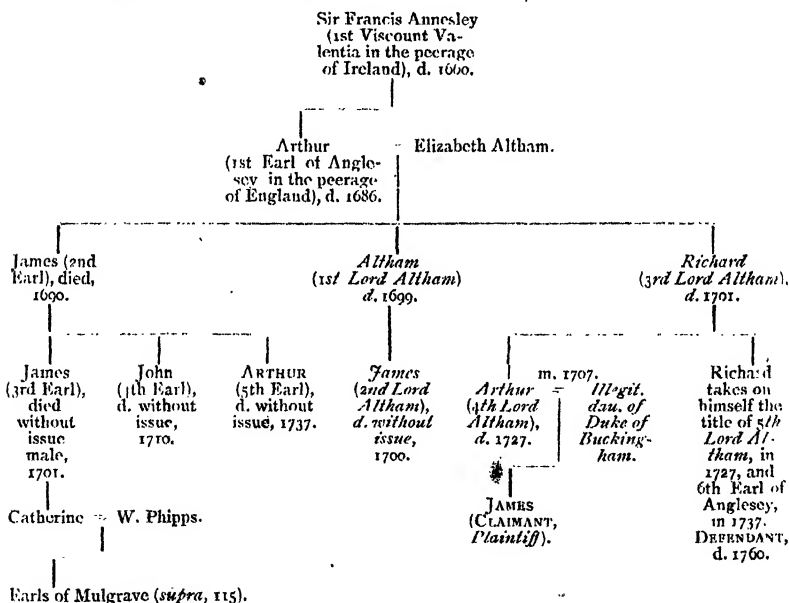
on the 25th of October, 1756, he was succeeded in his title and estates by his eldest son Robert, who was created Earl of Roden in 1771, and who was great grandfather of the present earl.

104. **A.D. 1756.**—LORD BOWES (JOHN BOWES) was called to the English bar on the 29th of June, 1718. Unsuccessful in England, he resolved to try his fortune in the sister country, and was accordingly called to the Irish bar in Michaelmas Term, 1725. One of the most accomplished orators of his day, he soon rose to the foremost ranks of the profession in this country. Created Serjeant in 1727, he became Solicitor-General in 1730; and in 1739 Attorney-General. He was counsel for the Crown on the trial—of which we have already spoken—of Lord Santry, at the bar of the House of Lords, for wilful murder, and his speech on that occasion drew from Dr. Rendle, Protestant Bishop of Derry, the following remarks, descriptive of his conduct of that case:—"Bowes, the Solicitor-General, had an opportunity of showing himself to the highest advantage. I always thought him an admirable speaker, but I never imagined him half so great a man as I do at present. He did not use one severe word against the unhappy lord, nor omitted one severe observation that truth could dictate. I never heard nor never read so perfect a piece of eloquence; its beauty arose from its true simplicity and unaffected ornaments, from the strength and light of his reason, the fairness and candour and good nature of his heart, from the order and disposition of what he said, the elegance and fulness of his expressions, the shortness and propriety of his reflections, the music of his voice, and the gracefulness of his elocution. These were all wonderful." Such was the opinion of one well qualified to form a judgment. A vacancy occurring in the Exchequer in the year 1741, he was raised to the dignity of Chief Baron of that Court, which then consisted of the Chief and two puisne Barons only. It was at the bar of this Court, and before the Chief Baron and Barons Mountney and Dawson, that the once celebrated case of *James Annesley v. The Earl of Anglesey* was tried. Mountney's name has long since passed out of recollection, though Dawson stands in a different position. This latter may have been an able lawyer; but if his name be now remembered, it is not for arguments of surpassing ingenuity, or for decisions of great moment, but for being the author of one of the best songs in the language; and as long as the strains of "Bumper Squire Jones" are remembered, so long his name will not be forgotten.

On the morning of the 11th of November, 1743, the trial of *Annesley v. The Earl of Anglesey*¹ commenced before the judges we have just named, and before a jury composed of men the

¹ Howell's *State Trials*, vols. 16-17; *Gentleman's Magazine*, vol. 14; Fitzpatrick's *Sham Squire*, p. 4; Duffy's *Hib. Mag.*, for 1860, p. 177.

majority of whom were justices of the peace. The counsel for the plaintiff were Serjeant Marshall (who in 1754 became a Justice of the Court of Common Pleas); Serjeant Tisdall; Geoffrey Lill (afterwards a Justice of the Common Pleas); and nine other distinguished lawyers. The counsel for the defence were the Attorney-General, St. George Caufield (afterwards Chief Justice); the Solicitor-General, Warden Flood (afterwards Chief Justice); Easton Stannard, then Recorder of Dublin; and the Prime Serjeant, Anthony Malone (one of the greatest orators, according to Henry Grattan, that this country has ever produced). Before proceeding further with this dreadful case, we shall place in tabular form before our readers the pedigree of the family. It will assist them in comprehending the proceedings to which we shall have to refer.



Serjeant Marshall stated the plaintiff's case. It is reported in the *State Trials* and in the *Gentleman's Magazine*; but it is from Duffy's *Hibernian Magazine* that the following is in great measure extracted:—

Richard Annesley, who in 1743 was Earl of Anglesey, had succeeded to that title upon the death, in 1737, of his cousin Arthur, third Earl of Anglesey, without issue. Previously to this, in the year 1727, he had by the death of his brother Arthur, fourth Lord Altham, also as it was supposed without issue, succeeded to the title of Altham, and to the estates which went with it.

"The estates of the Anglesey family, which thus held the two titles of Anglesey and of Altham, had been the subject of settle-

ments and of devolutions both of which are somewhat complicated. To those it is unnecessary to refer further than to state that, in consequence of them, Earl Richard's right alike to the estates and to the titles of Anglesey and of Altham depended altogether upon the death of his brother Arthur without leaving a son. Arthur, as we have already stated, died in 1727, and if he had left a legitimate son, that son would have at once succeeded to the estates and title of Altham, and would in 1737 have been Earl of Anglesey, to the exclusion in both instances of Richard. But, as it was erroneously believed, Arthur on his death left no son to succeed him, and Richard accordingly came successively into possession of the honours and estates which belonged to the Anglesey family. In that possession he remained peaceably for some years, when suddenly there appeared a claimant calling himself James Annesley, who not merely challenged Earl Richard's rights, but accused him of the grossest malpractices in the mode in which he had gained possession of his estates and titles. His statement was, that he was the legitimate son of the late Lord Altham, by his wife, a daughter of the Duke of Buckingham: that Lord and Lady Altham, who had never lived very happily together, had finally (in the year 1717) separated, never to meet again; and that he, their son, had been taken by his father to live with him. Unfortunately, Lord Altham fell into the power of a Miss Gregory, an unprincipled and designing woman, who had, for reasons of her own, taken a violent dislike to young James Annesley, and had so influenced Lord Altham, that he shortly began to neglect and even ill-treat his child. This neglect and ill-treatment went so far that the boy was for a long time excluded from his father's house, and suffered to wander homeless and penniless about the streets of Dublin, where he would have starved but for the benevolence of some charitable persons, who, aware of his rank, took him, and gave him that shelter which his father had refused to him. So things had gone on for three years. At last, in 1727, Lord Altham died. The boy, who was then about thirteen years of age, was unable to press his claims. Although he had been, when he resided with his father, first recognised by many as the heir to the title of Altham, he was soon forgotten; and his uncle Richard, who had on his brother's death at once assumed his title, was too powerful to be successfully opposed by a mere boy, unsustained, and without money or influence. Nevertheless, young, poor, and weak as he was, the boy was a perpetual source of fear to Richard, who was aware of his existence, and of the justice of his title. Having once taken the step of depriving the orphan of his right, Richard accordingly determined to deprive him likewise of the power of ever asserting it. He sent men to dog the lad and to seize his person. Twice they attempted to kidnap him, and twice they failed. A third

attempt was more successful. James Annesley, when thirteen years of age, was seized in Ormond Market, in presence of his uncle, who there charged him with theft. The boy was at once hurried off to the quay, placed in a boat, and taken off to Ringsend, where he was put on board a ship which was about to sail for America. Richard Annesley accompanied him to the ship, and left him there. This was in April, 1728.

"The ship at once proceeded to the river Delaware, in North America, and there the heir of the house of Annesley was sold as a slave. In that wretched position he remained for thirteen years. At the end of that time he made his escape, and found his way to Jamaica. Here his story excited the interest of Admiral Vernon, who sent him to England, where he proceeded to take the necessary steps for asserting his alleged rights. But his adventures were not over. He had the misfortune to kill a man near London, and was tried for murder. Richard, the Earl of Anglesey, who knew of his return and of his proceedings, made himself most active in supporting the prosecution; but the prisoner was acquitted. Such was the story of the plaintiff in the great cause of *James Annesley v. The Right Honourable Richard, Earl of Anglesey*; and such, in substance, was the case, the truth or falsehood of which came on for trial before the full Court of Exchequer at Dublin, on Friday, the 11th of November, 1743.

"The only two questions which the jury had to try were simply these: first, whether Lord Altham, deceased, had had a son; and secondly, whether James Annesley, the plaintiff, the adventurer of whose career an outline has been given, was that son. If this trial took place at the present day, the very first witnesses, in all probability, who would be examined upon either side would be the parties themselves. James Annesley would, upon oath, detail all his adventures, and be subject to cross-examination by the opposite counsel. Lord Anglesey would either have an opportunity of clearing himself from the foul imputations cast upon him, or by his declining to allow himself to be examined would add tenfold strength to the case of his adversary. But in 1743 this was not so. All the old disqualifications on the ground of interest were then in full force. The wisdom of the law then rendered incapable of giving evidence those very persons whose evidence would have been most valuable, and would have thrown most light upon the matter in dispute. The Chief Baron and his brethren would have been struck dumb with horror, had it been proposed to call as a witness either the plaintiff or the defendant.

"The entire of the first day of the trial, and a great part of the second, were taken up with the examination of witnesses who proved the birth of a son by Lady Altham, and various

circumstances connected with that event. It appeared that Lord and Lady Altham, who had been married in the year 1706, but had after a while disagreed, became again reconciled in the year 1713, and that at the end of October, or beginning of November of that year, they came to Dublin, where they lodged, first at the house of Captain Briscoe, in Bride-street, and afterwards at the house of Mr. Vice, 'at Temple Bar, near the Slip.' Thence they went at Christmas to Lord Altham's seat at Dunmain, in the county of Wexford, where they remained until June or July, 1714, when they returned to Dublin, and again took up their quarters at Temple Bar. Both while at Dunmain, and while on the second visit to Dublin, Lady Altham, according to the evidence, had mis-carriages, which it would also appear were upon both occasions caused by the violent habits of her husband, who seems to have been a man of a hasty character, and somewhat given to intemperance. However, they again returned to Dunmain, where they remained together until the year 1717. In the spring of the year 1715, Lady Altham was safely delivered of a son. This was proved by a servant who was with others in the room at the time, and there was an abundance of corroborative evidence. Thus a Major Richard Fitzgerald proved that in 1715 he was at Dunmain; he had met at Ross Lord Altham, who invited him to dine with him the next day. 'Deponent'—we quote from one of the reports of the trial—'desired to be excused, because he was to dine with some officers, but Lord Altham said deponent must dine with him, and come to drink some groaning drink, for that his wife was in labour. Deponent told him that was a reason he ought not to go: but Lord Altham would not take an excuse, and sent the deponent word next day to Ross that his wife was brought to bed of a son, and the deponent went to Dunmain, and dined there, and had some discourse about the child, and Lord Altham swore that the deponent should see his son; and accordingly the nurse brought the child to deponent, and deponent kissed the child and gave half a guinea to the nurse, and some of the company toasted the heir apparent to Lord Anglesey at dinner. This was the day after the child was born.' Others gave evidence of the christening of the child, which took place when he was three weeks old, the rite being performed by one Mr. Loyd (Lord Altham's chaplain). 'That the godfathers were Counsellor Cliff and Mr. Colclough, and the godmother Madame Pigott.' There was also evidence, 'that there were great rejoicings for the birth, and plenty of wine and other liquors drank on that occasion.' The demeanour of Lord and Lady Altham towards the child was also shown to be that of fond parents. One witness, a Mr.

Turner, who was seneschal to the then Lord Anglesey, deposed that 'he saw the boy at Dunmain, a year and a half old; stayed a night in Dunmain, and had the child in his arms; saw the lady leading the child across the parlour; saw the Lord Altham kiss the child, and he called him Jemmy; saw the child afterwards at Ross, and at Kinnay in the county of Kildare; saw the child once at Ross when Lady Altham lodged there at one Butler's.' . . . 'Deponent being asked how the child was treated at Kinnay, says that he was dressed as the son of a nobleman, and the servants called him *master*; saw him at Kinnay, as he believes, three or four times; the child could walk at Kinnay, and used to be wheeled about in a little carriage; saw the child afterwards at Carrickduff, in 1720, and Lord Altham was fond of the child; that my lord and deponent being at a tavern in Dublin in 1722, Lord Altham said he would send for his son, that deponent might see him, and the child accordingly was sent for; that he was then about eight years old, and Lord Altham said to deponent, you were seneschal to Earl Arthur and Earl John, and you may be seneschal to the child.' The same witness, upon cross-examination, deposed to a conversation which he had had at a later period with the defendant. 'Deponent asked him one day what had become of Jemmy? to which the defendant answered that he was dead.' Numerous other witnesses deposed to the birth of the child, his christening, the parental manner in which he was treated by Lord and Lady Altham, and to the fact of his having been sent to be nursed by a woman named Landy, who lived in a house not very far from Dunmain. This last was apparently the most assailable point of the plaintiff's case. It appeared in evidence that Landy herself was a woman of tarnished character. She was married to a man of the name of M'Cormick, but before her marriage she had had a child, and one of the rumours of the country seems to have been that the father of this child was Lord Altham himself. Of course it appeared most unlikely that Lady Altham should have consented to commit her son to the care of such a woman; and so, very early in the trial, it struck the Chief Baron. Furthermore, it appeared that the house in which Landy and her father lived was a very poor and mean one; and although it was attempted to be shown that a large addition had been built to the house, and that it had been greatly improved when the child was sent there, the cross-examination of the witnesses tended to show that the boasted addition and improvements were really of the most trivial character. Before going any further, we may observe as to the mode in which the Irish courts did their business in 1743, that the proceedings of the first day of the trial did not

end until eleven o'clock at night. The same diligence was practised on the succeeding days. The Court almost invariably sat at nine o'clock in the morning, and seldom rose before ten or eleven at night.

"One of the most important witnesses for the plaintiff was a woman named Joan Laffan, who had been in Lord and Lady Altham's service, and who was examined on the second day of the trial. The child, according to her statement, was about three or four months old when she came into Lord Altham's service. A great part of her evidence related to the separation between Lord and Lady Altham. That separation took place very suddenly at Dunmain, and the occasion of it was detailed by this witness upon her cross-examination. It appeared that in the year 1717, a Mr. Thomas Palliser was staying at Dunmain, of whose conduct Lord Altham entertained suspicions, which were encouraged by the servants of the house, who, for some petty reasons, had conceived a dislike for Mr. Palliser. The evidence upon this point of the separation discloses such a curious state of society, that it is best to give it as reported. The witness was asked if she knew Colonel Palliser? 'Says she has never seen him but once. Says she wishes his son Tom Palliser never had been at Dunmain, for then the accident of the separation never had happened. Says she remembers that the day his ear was cut off she had the child in her hand, and the child showed deponent some of the blood which had fallen from Palliser's ear on the ground; says he showed it by pointing his finger to the ground, where some drops of blood were. She was asked if Mr. Thomas Palliser saw the child? Says he did. Says that the occasion of my lord's cutting off Mr. Palliser's ear was that some of the family had made my lord jealous of him, and contrived that morning to get him into my lady's chamber, when she was in bed and asleep, and then they brought my lord, who, being by this stratagem confirmed in his suspicions, ordered Tom Palliser to be dragged out of my lady's bed-chamber by the servants, and with a sword was going to run him through the body; but the servants interposed, and begged my lord *not to take away his life, and only to cut off his nose or one of his ears; and accordingly the huntsman was ordered to cut off his ear, which he did.* Says the servants kicked him down stairs, and turned him out of the gate, and that this happened upon a Sunday morning; that my lady left Dunmain the same day, and went to Ross.' The rest of this scene of the domestic tragedy was given by the same witness upon her direct examination: 'Says that she was present when my lord and lady parted; that she saw my lady at the door with the child in her arms; that my lord came out of the house in a great

rage, and asked where his child was? and upon being told that he was with his mother, he ran up to her and snatched the child out of her arms; that my lady begged very hard she might take the child along with her, but that my lord swore he would not part with his child upon any consideration; that my lady, finding she could not prevail, burst out a-crying, and begged she might at least give the child a parting kiss; that my lord with some difficulty consented, and then my lady drove away to Ross. That as soon as my lady was gone, my lord gave the child to deponent, with a strict charge to deponent not to let my lady have any access to him; but says that notwithstanding these orders, some of the servants found means to carry the child privately to Ross to see my lady, which, when my lord was told of, he flew into a very great passion. Says that the child was carried to Ross without deponent's privity, for that sometimes deponent used to go to Waterford to see a brother of hers who lived there, and some other friends; and in her absence some of my lord's servants, for the lucre (as she believes) of getting a piece of money from my Lady Altham, took those opportunities to carry the child to New Ross. Says that the Christmas Eve after the separation, the present Earl of Anglesey, who was then Captain Annesley, was at Dunmain House, and not seeing the child, said to deponent, *Where is Jemmy? or, where is my brother's child? How did his mother behave at parting with him?* To which deponent answered that my lady had begged of my lord very hard to have the child with her, whereupon the present Earl made use of an extraordinary oath, and said *that he wished his brother had kept none of the breed, and that when he turned away the mother he should have packed off the child, and sent them both to the devil.* All this was of great importance as showing that the child must have been that of Lady Altham, and that both Lord and Lady Altham evinced a care and tenderness for it, which was only explicable upon that ground, and upon the ground of its being the heir of the house; and accordingly counsel for the defendant did his best to break down Laffan's credit. The line of cross-examination was intended to show, in fact, that Laffan had got into the hands of an agent of the plaintiff, and that her whole story had been concocted. In this attempt, however, counsel was baffled, and though it certainly did appear that Laffan had had communications with the agent, still she persisted in asserting the truth of her evidence.

"The next class of witnesses that were examined were brought up to depose to the period from 1721 to Lord Altham's death. Witnesses were produced who proved that they had known

Lord Altham during his successive stays at Kinnay in the county of Kildare, Carrickduff in the county of Carlow—or as it is invariably called in the old report of the trial, Catherlough—and Dublin. All these witnesses deposed to the fact of Lord Altham having had constantly with him a boy whom he treated as his legitimate son, and of whom he frequently spoke as being the heir to the title of Anglesey. One of these mentioned that Lord Altham while at Carrickduff, ‘used to take the child with him to hurlings, and bought a little horse for him to ride upon, and that the child was dressed very gay.’ During this time also Lord Altham provided for the child’s education, at some periods sending him to school, while at another time he employed a tutor for him. One of the witnesses, a Mr. Misset, had been at school with the boy in the county of Kildare. • We will quote a portion of his evidence, which throws a curious light upon the history of the times. ‘Says,’ so runs the report, ‘he knew Lord Altham, when he lived at Kinnay, in the county of Kildare, about two miles and a-half from the place where deponent lives: says deponent, when about seventeen or eighteen years old, went to school to a place called Dowlingstown, and that there was a boy there whom the scholars called Lord Altham’s son. Deponent thinks the child could not be less than six years old, and says he continued about a month there; says the schoolmaster’s name was Bryan Connor; that being a papist, he was persecuted by a Protestant schoolmaster in the neighbourhood, who wanted to banish him from those parts; that some of the neighbours, being concerned that the poor man who had lived so long amongst them should be banished or disturbed, requested my lord to take him under his protection; and deponent says, that having had the honour to hunt some times with my lord, he took the opportunity to speak to his lordship about it, to which my lord answered that he had been spoken to on Connor’s behalf, and intended to send his son to school to him, which he believed would hinder the other schoolmaster from disturbing him; that, accordingly, at the request of the neighbouring farmers, my lord sent his son to Connor’s school.’

“We now come to that part of the case which treats of the declining fortunes of young James Annesley. Lord Altham came to Dublin with him in the year 1722 or 1723. To the modern reader, the names of the places where this nobleman successively took up his abode will seem very strange. Lord Altham’s first residence was in Cross-lane, his next in Frapperlane. At the present day, these are scarcely the places at which one would expect to find a member of the peerage living: but in the first place, Lord Altham’s fortunes at the time appear

to have been far from flourishing; and in the next place, the great changes which the last fifty or sixty years have wrought in our city must not be forgotten.

“While living at Cross-lane or Frapper-lane, Lord Altham, according to the evidence, sent his son to the school of one Carty, in the latter place. His lordship, however, fell under the control of Miss Gregory, whose name we have mentioned, and after a while quitted Dublin for Inchicore, leaving young James Annesley in the care of a dancing-master named Cavenagh, who put the boy out to board at a house in Ship-street. Here the child seems to have been badly treated, for he applied for relief to an old playfellow of his named Byrne, who was examined upon the trial. Mr. Byrne’s evidence was, that James Annesley had come to him complaining of the treatment he had met in Ship-street, and of Cavenagh’s heartless conduct towards him. Byrne advised him to go to Inchicore to his father, but this the boy refused to do, on the ground of his fears of Miss Gregory. Thereupon Byrne invited him to stay with him, and actually supported him for six weeks, James Annesley sometimes sleeping in the same bed with him, and sometimes in the hay-loft attached to Byrne’s father’s house. Byrne further, at the trial, identified the plaintiff as being the same person whom he had years before known as James Annesley, and whom he had supported in the manner which he had deposed to. At this period, the fortunes of Lord Altham’s son came to almost their lowest ebb. Witness after witness was examined, who had seen him, knowing who he was, wandering about the streets of Dublin, starving, and glad to earn a few pence by chance jobs. One gentleman, a Mr. Amos Bush, deposed that, when in Trinity College, he had for some time employed him as a sort of servant, and had discharged him on discovering his rank. This witness also identified him upon the trial. Another witness, Mr. Dominic Farrell, deposed that he had known Lord Altham and also the boy at Dunmain, and was well acquainted with him when he was in disgrace with his father, for he used to come to visit deponent, and deponent often relieved and supported him, and recommended him afterwards to one Purcell, a butcher, because deponent’s wife grudged the child’s being in the house, and kept at deponent’s expense, who was a sufferer by his father for £56: that finding the child was abandoned and neglected, deponent went to my lord to Inchicore, and applied to him, and told him the cruel and scandalous way his son was in, and begged his lordship not to let the poor child continue as a vagabond about the streets; that my lord said he was in low circumstances, and could not pay for his board, nor could he take him into his own house because of Miss Gregory, for he should have no peace if he offered to do it; but my lord desired

deponent to support him, and he would not only pay deponent the money he owed him, but thankfully repay what deponent should supply his son with, whenever it was in his power. Purcell, whom Farrell had mentioned, was also examined. He related how the latter had recommended the boy to him 'as an object of pity.' Thereupon he took the lad home with him, and presented him to his wife, who seems to have had much more of the milk of human kindness in her than Mrs. Farrell, for she at once proceeded to take the greatest care of the boy, and nursed him through an attack of small-pox which he shortly afterwards got. Soon after his recovery, the defendant, then Mr. Annesley, came to see him, and the boy, though evidently in great terror at his visit, spoke to him as his uncle. Very shortly after this visit Lord Altham died, and, says the report of Purcell's evidence, the child was told of the death of his father, and that he was to be buried at Christ Church; and the child went there and saw the funeral, and afterwards came back all in tears. Being asked when Lord Altham died, says in November, 1727. That in about three weeks after my lord's death, Mr. Richard Annesley (who was then called Lord Altham) came into the market (where or near which Purcell lived), and sent a man, who belonged to one Jones, a butcher, to deponent's house, to desire that the child might come to the said Jones' house in the market; that thereupon the child came, and told deponent that his mistress (meaning deponent's wife) wanted to speak with deponent; that deponent accordingly went home, and was told by his wife that the child had been sent for to Jones' house, but that she was afraid it was some trick of his uncle's to use him ill, and that she did not care to let the child go to Jones' without deponent. Deponent thereupon bid the man return and tell them the child was coming, and then deponent took a cudgel in one hand and the child in the other, and went to the said Jones' house, where deponent saw the present Earl of Anglesey (who was then in mourning), with a constable and two or three odd-looking fellows attending about the door. There were hot words between Purcell and the boy's uncle. The latter called the boy a thief, and Purcell answered: 'My lord, he is no thief; you shall not take him from me; and whoever offers to take him from me, I will knock out his brains.' In the end, Purcell and his cudgel prevailed over his lordship and his myrmidons, and the boy was brought safely back to Purcell's house, where, however, he did not remain long; for without Purcell's knowledge he went away, being frightened at the number of people whom he saw about the house, and fearing lest he should be carried off by some of them."

We shall not go further into the details of the scene which followed.

In an unguarded moment, however, James Annesley was caught. He was hurried on board a vessel lying in the Liffey, which at once sailed for America, where the unhappy boy was sold as a slave to a planter. For thirteen years was the youthful Earl of Anglesey, scorched by the summer sun of America, subjected to the slave-driver's lash, and condemned to herd with the black men of the line, and was often stabbed in his fruitless efforts to escape from his tormentors.

Annesley, in his captivity, found more sympathisers than one—he was loved by his master's daughter and by a slave of the Irokese nation.¹ The warm blood of the Indian girl could not brook the rivalry of the daughter of her slave-master. She accused her of an attachment to Annesley, and then rushed at her, and would have killed her on the spot, had they not been separated by some persons passing at the moment. Seeing the dreadful consequence of so rash an act, the slave girl rushed to the brow of a precipice that overhung an adjacent torrent, and, plunging herself in, ended at once her love and her life. Sold to another master, the noble slave escaped at last, and found his way to Jamaica, where he volunteered as a sailor on board a man-of-war. There he made himself known to Admiral Vernon, who then commanded the West Indian fleet. His exalted rank was at once recognised, and the account of his case was written home to the Prime Minister. He was discharged. His discharge soon came to the knowledge of the Lord Anglesey, and the false Earl prepared to defend his usurped title and possessions. The most eminent lawyers at the English and Irish bars were retained to defend an action which had not even yet been threatened. Annesley at length arrived, and Lord Anglesey felt that the hour of retribution had come; he therefore resolved to give up the estate and retire to France, if he could obtain from the plaintiff a certain sum of money. A circumstance, however, occurred that altered his resolution. Young Annesley had been spending some time with a relative of his near London; it was on an afternoon early in May, 1742, he accompanied a labourer named Egglestone on a poaching excursion, when the gun accidentally went off, and the unfortunate Egglestone was shot dead. An opportunity now presented itself to Lord Anglesey of getting his nephew hanged. He was at once indicted for wilful murder at the Sessions House in the Old Bailey, and no stone was left unturned by the Earl to secure a conviction. The case occupied a considerable time, but, after a patient hearing, and without leaving the box, the jury brought in a verdict of not guilty. Returning to Ireland, Annesley was recognised by many, who, on the trial, swore, as we have said, to his identity.

¹ *State Trials*, vol. xvii., p. 1450.

The case for the defendant amounted to a denial of the truth of that of the plaintiff. It consisted of two parts: first, that Lord and Lady Altham never had a child, and that all the evidence upon this point given by the plaintiff's witnesses was so much perjury;—secondly, that the plaintiff, who called himself James Annesley, was no other than Joan Landy's son, who had been adopted by Lord Altham after his separation from his lady, and afterwards discarded by his lordship for his incorrigible idleness and bad habits. To sustain these two points a number of witnesses were called, and certainly their evidence afforded a startling contradiction to that of which we have attempted to give a summary. People who, at the time of the supposed birth, were living in the neighbourhood of Dunmain, came forward to state that they had never heard of the event. Persons who, according to their own statements at least, were frequent and familiar guests at Dunmain while Lord and Lady Altham lived there, swore that at none of their visits had they ever seen the boy whom the plaintiff's witnesses had described. In vain were the conflicting witnesses confronted with each other; and two, three, and even four of them placed upon the table together. Each party abode unflinchingly by his or her original statement, the plaintiff's witnesses recapitulating all that they had before sworn to; the defendant's witnesses repeating their negative testimony, and stating besides declarations of Lady Altham herself, showing that she was childless. In the course of the plaintiff's case, several witnesses had deposed to the reputation of the country about Dunmain being that an heir had been born to the house of Annesley. Now the defendant's witnesses were as ready on the other hand to swear that the reputation of the country was that Lady Altham never had a child. In fact, the contradiction was as flat and as complete as it possibly could be. But in addition to thus simply contradicting the plaintiff's case, the defendant went further. It will be remembered that the evidence had been that Lady Altham's alleged confinement had taken place in March or April of the year 1715. This was about the time at which the spring assizes of that year for the county Wexford had been held, and at those assizes a rather remarkable trial had taken place. Two gentlemen, Mr. Masterson and Mr. Walsh, had been indicted for the offence of enlisting men for the Pretender, the son of the dethroned James II. The year 1715, as the reader will recollect, was that in which took place the Earl of Mar's desperate attempt to restore the House of Stuart. The two gentlemen who were thus indicted at Wexford were acquitted, the Judge who tried them "not liking the evidence against them," to use the expression of one of the witnesses in the present case. The trial naturally excited a great deal of attention in the county of Wexford, and of course during it the

court-house was thronged with spectators. Amongst these spectators, according to the evidence for the defendant in the present case, was Lady Altham, who, if the plaintiff's witnesses were to be believed, was not at that time in a fit condition to leave her house, or even her room. One of the defendant's witnesses even went so far as to state her recollection of the manner in which Lady Altham had gone to the court-house, and swore that Lord Altham and Mr. Caesar Colclough had gone into Court with her. Here, however, the evidence for the defendant utterly failed. Not only did Mr. Kerr, the clerk, or as we should now-a-days say, the Registrar, of the Judge of assize, state that he had no recollection of having seen any ladies in Court during the trial, but Mr. Caesar Colclough himself, who was examined on a rebutting case gone into by the plaintiff, positively swore that he did not "remember to have seen Lady Altham at that assizes; and that she could not attend that trial and sit near him, but he must have seen her; and believed, if she attended that trial he should have known it."

"The examination of witnesses took up no less than ten days. On the eleventh morning, Prime Serjeant Malone rose to address the Court for the defendant. He did his duty in a manner fully equal to his great reputation. His speech was a most masterly review of the evidence in the case, and left no material point untouched. It took four hours and a-half in the delivery, having been begun at a quarter before nine, and having ended at a quarter past one. He was followed by the other counsel upon both sides, the general reply being of course left to the plaintiff.

"On the twelfth day of the trial the Judges delivered their charges; that of the Chief Baron was cautious, dignified, and impartial. Barons Mountney and Dawson took opposite views, the former giving what was almost a direction to the jury to find for the plaintiff, while the latter leant strongly in favour of the defendant. At length the jury retired. They were absent for two hours, and at the end of that time returned with a verdict for the plaintiff."

In the following Hilary Term a new trial was moved for and granted; but before it came on to be heard, James Annesley was released from all earthly anxieties, and found, let us hope, in another world that happiness which, from the cradle to the grave, was denied him in this. Richard Earl of Anglesey was now therefore in undisputed possession of the titles and estates.

But his conduct to his wife was quite as atrocious as his conduct to his nephew, and was on several occasions brought under the notice of the Lord Chancellor. Years previous to the death of his brother, the 4th Lord Altham, Richard Annesley

had married a lady named Anne Simpson, young—she was then in her sixteenth year—extremely beautiful, and possessed of a fortune of £40,000. She bestowed this fortune absolutely on her husband. For eleven years they lived happily together; she was recognised in society as his wife, and that recognition is to this hour a matter of record on the files of the Courts. He had been engaged either as plaintiff or defendant in several suits; and in the progress of those causes it became necessary for both to swear joint affidavits, in all of which she was recognised as his wife, while his children—three daughters—he kept at an expensive school in England.

Not far, however, from his mansion in the county of Wexford lived a man named Donovan, the keeper of an unlicensed ale-house, whose daughter captivated the affections of the Earl, and they eloped together. In 1741 the Countess instituted a suit against her husband in the Ecclesiastical Court, for cruelty and adultery, and obtained, together with a decree for costs, an order for alimony at £4 a-week until final sentence should be duly pronounced. The Earl, having been served with a monition, declined to obey the order of the Ecclesiastical Court, and sentence of excommunication was therefore in due form pronounced against him; and an application was forthwith made to the Chancellor, Lord Jocelyn, for a writ *de excommunicato capiendo* for his arrest. This the counsel for Lord Anglesey resisted, on the ground that being a peer he was privileged from arrest, and the motion was in consequence refused. The Countess, therefore, left penniless, gained nothing by the suit. Thenceforward she received from the charity of the government a pension of £200 a-year charged upon the Irish establishment. The Earl next resolved to break this marriage, on the ground that at the time it was contracted he was already a married man, and that the name of his real wife, by whom he had no children, was Anne Pest, an English lady who had died in 1729, three years after his marriage with Anne Simpson. In 1752 he married his mistress Julia Donovan, and by her left at his death in 1761 a son Arthur, who had been born in 1753. A question arose on the death of Earl Richard as to whether this Arthur was the legitimate son of his father, and excited great public interest during the four years in which it was pending in the Irish House of Lords. That assembly came to a decision establishing the marriage of Julia Donovan and the legitimacy of her son, who accordingly, in 1765, took his seat as Viscount Valentia, Baron Mountnorris, and Baron Altham. He then made a similar application to the English House of Peers, to establish his claim to the English Earldom of Anglesey; but that House declined to acknowledge his legitimacy, and so the anomaly arose that while he was admissible as a peer in the peerage of Ireland, he

was, on the same evidence, refused admission amongst the peers of England.

On the death of the Lord Chancellor, Lord Jocelyn, in 1756, Chief Baron Bowes was promoted to the Chancellorship, and on the 17th of August, 1758, was raised to the peerage with the title of Baron Bowes of Clonlyan. That the mind of this Chancellor, adorned as it was with many virtues, was yet darkened by the dismal prejudices of the times, is too well remembered to require proof. He laid it down as a legal maxim that every person in the realm of Ireland belonged to the established church; and so expressed himself in a case that occurred in 1759, when a wealthy Catholic named Lawrence Saul was indicted for having harboured a young lady who had sought refuge in his house, to avoid being compelled by her friends to conform to the established church. Lord Bowes is reported to have said that "the laws did not presume that a papist had existence in this country, nor could they breathe without the connivance of the government."

In 1759, the city of Dublin was agitated by violent tumults, in consequence of a proposal for a union between England and Ireland. An enraged Protestant mob, filling every avenue that led to the houses of parliament, insulted the peers, and dragged the Chancellor from his carriage, and obliged him to swear on the spot that he would oppose with all his might every attempt to promote a union between the two kingdoms. Conceiving that an oath taken before themselves would not be binding on the Chancellor's conscience, they stopped the Chief Justice, and compelled him to administer the oath to Lord Bowes.

With the accession of George III., in 1760, a new era was ushered in. The light of liberty was then breaking on the long night of religious intolerance, and in 1762 a bill was passed in the Irish parliament, enabling Catholics to lend their money on the security of real property. In the following year the Chancellor, though his health was now beginning to give way under the increasing load of years, spent much time in forwarding the preparation for the press of a work with which every lawyer is familiar, entitled *The Irish Statutes*.

In 1766, the House of Lords, acknowledging his long and valuable services, resolved:—"That an humble address be presented to his Excellency the Lord Lieutenant, requesting that his Excellency will lay before His Majesty the request of this House, that His Majesty will be graciously pleased to grant the Lord Chancellor £1000 in addition to his customary allowance as Speaker of this House, in approbation of his lordship's particular merit and faithful services in that high station."

Lord Bowes lived to an old age, and his death is thus recorded on a mural slab in Christ Church cathedral:—"Sacred to the

memory of JOHN LORD BOWES, late LORD CHANCELLOR of IRELAND, who died in the seventy-sixth year of his age, 22 July, 1767. This monument is erected by his affectionate brother, Rumsey Bowes, Esq."

The public character of Lord Bowes is drawn in flattering terms by Mr. Francis Vesey, the learned editor of the *Irish Statutes*. In his dedication of that great though imperfect work to the Chancellor, he states that the laws "have been explained, enforced, and carried into execution by him for five-and-twenty years, in the Courts of Exchequer and Chancery, where his decisions have given authority to law." . . . "Rare and various were the talents," he continues, "with which his lordship was blessed, and which made the High Court of Chancery a terror to fraud, and a protection and comfort to every honest man." With the death of Lord Bowes, the title, which was limited "to him and the heirs of his body," expired.

105. A.D. 1767.—LORD LIFFORD, James Hewett. The Hewetts appear to have been settled in the county of Cumberland early in the last century. William Hewett in 1744 was mayor of Coventry in the county of Warwick, a city historically hostile to lawyers; for it was there that that parliament was held, in the reign of Henry IV., which was called the *Parliamentum indoctum*, or the unlearned parliament, because lawyers were excluded from it. Nevertheless, James Hewett, who was afterwards a distinguished lawyer, was born in that city in the early part of the eighteenth century. His father seeing his partiality for the law sent him to the bar, to which he was called from the Middle Temple in 1742. He immediately joined his circuit, upon which he soon took a leading place. Nothing beyond the ordinary circuit business occurred until 1753, when the country was disturbed by many riotous assemblages unworthy of remembrance were it not for their cause. That cause was the aversion felt by the lower orders of the English people to the adoption of the Gregorian or popish Kalendar, which was to them a dark and deadly sin! The people, whose theological and astronomical opinions differed from those of their rulers, were resolved that the change should not take place; for they felt that, whatever that change was, it must be for the worse, seeing that the Pope of Rome, to them "the man of sin and son of iniquity" as they were wont to stigmatise Gregory XIII., was the person who first removed the Easter festival so many days backward. The matter was discussed; and, come what may, the churches must not be desecrated by the observance of Easter on "the wrong day"! Furious riots occurred, and the rioters arrested were cast into prison, there to await punishment, if Mr. Hewett, on his own circuit at least,

could not successfully defend them. The assizes came on; some were acquitted, some found guilty; and the bar on the circuits had no reason to deplore the adoption of the reformed Kalendar!

In 1755 Hewett became Serjeant, and in 1761 was elected member of parliament for Coventry. He immediately joined the ranks of the Opposition, then headed by William Pitt, the able antagonist of that ministry whose policy in the end deprived England of her North American colonies. He frequently spoke in debate; but his powers as a debater appear not to have been of the first order. The *Parliamentary Reports* for 1765 contain a lengthened debate on the practice of the Attorney-General proceeding by information rather than by the ordinary process of indictment. Serjeant Hewett spoke in support of a motion condemnatory of the practice, "but," the reporter sarcastically adds, "in so cold a manner that the motion may be said to have received no material support from his speech."

In 1766 William Pitt, who had been created Earl of Chatham, was again in the ministry as Lord Privy Seal. In the same year, Hewett was appointed to a Judgeship of the Court of King's Bench in England, and some months after, through the powerful interest of the Earl was created, on the death of Lord Bowes, Lord High Chancellor of Ireland, with a peerage. The Duke of Grafton, then Prime Minister, in speaking of this appointment, says:—"Lord Lifford accepts the seals with very good disposition to discharge properly the great trust put into his hands. His learning as a lawyer sanctioned our expectations. He was a true Whig, and bore a character to which all parties gave their assent of respect; and though his speeches in parliament were long, and without eloquence, they were replete with excellent matter and learning in the law."

The new Lord Chancellor was about to enter on the duties of office at a time when the Roman Catholics of this country were struggling with increased energies against the penal code, which, long enacted, was now bringing to maturity its poisonous fruit. Priests were still indicted "for that they, not having the fear of God before their eyes, but moved by the instigation of the devil, said Mass, and did other functions of a popish priest, against the peace of our lord the king (George III.), and contrary to the statutes in that case made and provided." But the Catholic people were as yet without leaders; and though they did struggle, their voices were not united. A Catholic Committee indeed was formed, and Lord Taaffe, one of their body, accompanied by Dr. Carpenter, afterwards Catholic Archbishop of Dublin, proceeded to London and waited on Lord Lifford, for the purpose of enlisting, before he should have crossed over to Ireland, his sympathies in their behalf. He had long been hostile to the oppressive policy adopted by England

towards her North American colonies, and it was believed that he was equally opposed to the penal code. On the 19th of December, 1767, Dr. Carpenter thus writes to the Catholic Committee in Dublin :—

“I have the express command from his lordship (Lord Taaffe), to communicate the steps he has taken since the 12th, the day of his arrival in London. The next day he waited on your new Chancellor, Lord Lifford, with whom he conversed for a considerable time on the affairs of Ireland. He (Lord Taaffe) assured him with his usual plainness and sincerity, that he had quitted his family and his friends, and undertaken, at this advanced time of his life, a long and toilsome journey, with no other view than to obtain some relief for his poor distressed countrymen. He spoke very freely, as well as feelingly, to the Chancellor of the rigour of the penal laws, and concluded with an earnest request that he (the Chancellor) would use every possible means of informing himself of the true state of the country (Ireland).

“The substance of what the Chancellor said during the long conversation was, that he was fully determined to open his ears to any information necessary for the impartial administration of justice; that the refusal of granting any other security to Catholics for money lent than a personal and precarious one was both unreasonable and cruel, and that the government had resolved on a mitigation of the penal code.”

Lord Lifford left, in a few days after this interview, for Dublin; and yet so dismal was the feeling of prejudice that nothing was done until 1771, when an Act was passed (11 & 12 Geo. III., chap. xxi., secs. 1–5) enabling a Catholic to take a long lease of fifty acres of bog, “and one-half an acre of arable land as a site for a house, or for the purpose of delving for gravel or limestone, for manure, next adjoining to such bog, and to hold the same at such rent as shall be agreed upon between him and the owner of such bog, for any term of years not exceeding sixty-one years, the law made to prevent the further growth of popery notwithstanding (sect. 5): Provided always . . . that this Act shall not extend to any bog lying within one mile of a town.”

In the latter half of the nineteenth century it is difficult to realize the severity of the penal code; but, however difficult, we shall yet be able to form some idea of that severity when we reflect that such an Act was necessary, and that its concessions, however trifling, were welcomed as a boon.

In 1773 the Chancellor presided in the Upper House, when a bill was brought into parliament for the purpose of levying a tax of two shillings in the pound on the income of Irish absentee landlords, who should not reside in Ireland at least six months in each year. The measure was exceedingly popular, and the

government, supporting it as an open question, rose greatly in public favour; but the violent opposition of the great landowners, many of whom lived altogether in England, prevailed, and the bill was rejected.

In 1777 the Chancellor was in his place in the House of Lords when the Lord Lieutenant announced that an alliance had just been formed between the rebellious American colonies and the French government; and made an appeal for support to His Majesty's faithful people of Ireland. In the month of January, 1778, American independence was acknowledged by France, and this acknowledgment was immediately followed by a relaxation of the penal laws, and by the raising of an army of "Volunteers." These, enrolled for the first time in Belfast, and next throughout the whole of Ireland, amounted to over 40,000 men, unpaid, self-clothed, self-organised, and instructed in military discipline by their own countrymen who had returned from the American war.

The Volunteers deserved well of the nation—their acts were heroic, and the thanks of both houses of parliament were voted to them. Amidst much that is dreary, amongst many of whom we may well feel ashamed, their patriotism, their liberality, and their moderation, shine forth conspicuously, and history points to few bodies of men who equal, and to none who surpass, the Volunteers of Ireland! Lord Lifford, however, was English in his ideas, and was therefore unfavourable to the full development of Irish nationality as advocated by them; and his opinion given to the Viceroy in 1779 was, that "for the present evils no remedy can be found till the people of both kingdoms shall be as one people under one king, one constitution, and with one religion."

The Irish House of Commons had not as yet become free; and on the 17th of April, 1780, they negatived by a large majority the motion of Henry Grattan for a declaration of their own rights. Two years of agitation followed, and it was during these years that the American war had shaken the power of England to its centre.

But we are departing from the history of the Chancellor to the history of a great revolution. We shall merely observe that on the 27th of May, 1782, the Lord Lieutenant, the Duke of Portland, proceeded in state from the Castle to the entrance to the House of Lords, along streets which were lined on both sides by regular troops in treble file, while the Volunteers with their artillery, under the leadership of Napper Tandy, were stationed along the quays and commanded all the bridges.¹ His Grace was accompanied in his state coach by the Earl of Charle-

¹ *General Evening Post*, for 28 May, 1782. Library, T. C. D.

mont, and Lord Westmeath; the ceremonial we are told by Sir Jonah Barrington was gorgeous. His Grace having taken his seat on the throne, the Lord Chancellor, standing on his right hand, commanded the Usher of the Black Rod "to repair to the Commons and acquaint them that it was His Grace the Lord Lieutenant's pleasure that they attend him immediately in the House of Peers." The Commons having come, they with their Speaker were conducted to the bar with the usual ceremonies, when His Grace announced the unconditional concessions made to Ireland by the Parliament of Great Britain. The Lord Lieutenant then withdrew, and the Lord Chancellor, "reported His Grace's Speech, and the same being read it was ordered to be printed." It was late when the House rose, and Lord Lifford as Speaker remained in his place to the last; his feelings could not be restrained, and he is recorded as the only individual who in that moment of national exultation dared to raise his voice against the rights of Ireland. "He seemed to apprehend that the total abandonment of the old rules of Irish promotion was unavoidable, and to foresee the invasion even of his own office, the fortress of the English interest, by ambitious Irishmen."¹

From 1782 to 1788, the Lord Chancellor's name is unconnected with any question of national importance. In the House of Lords, indeed, and in Court, he is reported to have been assiduous in his attendance; but we do not find that he took a leading part in any movement until the regency question of the last-named memorable year. On that measure occurred the first great divergence between the legislatures of England and Ireland, a divergence which threatened for a moment to rend the Empire in twain. The facts are these:—George III. in that year was afflicted with an attack of insanity which unfitted him for the transaction of affairs of state; and to appoint a Regent became therefore a duty incumbent on the parliaments of the two countries. The parliament of England offered the regency, though hampered with many restrictions, to His Royal Highness the Prince of Wales; but the Irish parliament, taking a different course, created him Regent without any such restrictions. Resolutions to this effect were carried in the Lords and Commons, the Lord Chancellor with fourteen other peers dissenting; and on the 14th of February, his lordship, accompanied by a number of peers, by the Speaker and many members of the House of Commons, proceeded in state to the Castle, there to place the Address in the hands of the Lord Lieutenant to be forwarded to the Prince of Wales. But his Excellency declined either to forward or even receive the document, on the ground that it was unconstitutional and illegal. The Chancellor, who must have

¹ *Memoranda of Irish Matters* (ed. 1844), p. 34.

been aware of the course about to be adopted, returned to the House of Lords and there informed the peers how the address had been rejected.

Lord Lifford had now in 1788 held the Seals for a space of over twenty years, old age was creeping upon him, and it was said that with the last day of the sittings after Trinity Term his lordship would retire from the office he had so long and so ably filled. On the 8th of July, when he had disposed of the last case on the list, Prime Serjeant Fitzgerald rose, and is reported to have addressed his lordship :—¹

“MY LORD CHANCELLOR,—In obedience to the unanimous desire of the gentlemen of the bar, I beg leave to trespass for a few moments on your leisure, and I cannot but hope to be pardoned for the interruption.

“Convinced that your administration of justice has raised a monument to your name and character which must call forth the public gratitude and reverence while the laws of this country shall remain an object of study and practice, we who have been cherished, protected, and brought forward by your lordship, who have been for more twenty years admiring observers of great and conspicuous talents, wish to give some proof to posterity that we were not insensible of our good fortune. We have long wished for a portrait of your lordship; permit us then to entreat that you will comply with that desire in some interval of leisure during your absence, and let it remain an evidence with our successors how much we have been honoured with your good opinion and regard; for we are conscious that it cannot be a tribute adequate to your virtues, or an attestation necessary to your fame. No, we feel that the memorial worthy of a wise and great magistrate must be written in characters far more permanent and expressive: it must be written in his labours—in the love of liberty—in the morals of a people—in the blessings of equal law: that memorial it has, my lord, been your peculiar felicity to acquire and to deserve; may it be ours that you long continue to adorn and to enjoy it.”

The Lord Chancellor replied :—

“MR. PRIME SERJEANT,—It hath ever been my ambition to deserve and acquire the approbation and esteem of honourable, able, and worthy men. I receive, therefore, the highest gratification in this testimony which you afford me of my possessing the good opinion and esteem of this intelligent and very respectable bar. I will endeavour to fulfil the request with which you have honoured me in the best manner I can. It will add an additional pleasure to the visit which His Majesty hath been most graciously pleased to permit me to make to England; and

¹ *Dublin Chronicle* for 1788, July 5, p. 240.

in acceding to it, I have not only the gratification of complying with your wishes, but also the hope that the portrait which, in a manner so flattering to me, you desire, may remain beyond my personal existence a memorial of the regard expressed by the bar towards me, and of my warm affection and sense of obligation towards them."

The Chancellor then left for England, and returned to his Court in the following Michaelmas Term. During the succeeding winter his health was much improved.

On the 20th of April, 1789, he entertained many guests at a sumptuous banquet, at his residence in Upper Sackville-street. His manner was light and airy, and on that evening he forgot, amongst his friends, the cares and weariness of old age. The next day he spoke in defence of the Lord Lieutenant in the House of Lords, and then, returning to his home, was seized by his death-sickness, a malignant sore-throat, which baffled all the skill of his physicians. On the 28th April, surrounded by his family, he expired. The following paragraph, which appeared in Walker's *Hibernian Magazine*, will be read with interest:—

"April 28. At his lordship's house in Sackville-street, in the 74th year of his age, the Right Honourable James Hewitt, Lord Viscount and Baron Lifford, of Lifford, in the county of Donegal, Lord High Chancellor of Ireland, and one of his Majesty's Most Honourable Privy Council. His lordship was appointed Lord Chancellor in 1767, created Baron Lifford on the 9th of January, 1768, and was further advanced to that of Viscount on the 4th of January, 1781. His lordship was deemed a lawyer of great professional knowledge. On the death of Lord Bowes he was made Chancellor, which station he filled for upwards of twenty-one years, and discharged its duties with unimpeachable and unsuspected integrity."

His remains were laid in in the crypt of Christ Church Cathedral, near those of his immediate predecessor. A monument was erected to his memory, soon after his interment, a tablet of white marble on a variegated ground, ornamented with the insignia of justice, above which is a medallion containing his lordship's likeness in *basso relievo*. On the tablet is this inscription:—"Near this place are interred the remains of James Viscount Lifford, late Lord Chancellor of Ireland. The unanimous sense of a grateful nation is the best testimony of the unblemished integrity with which for the space of twenty-two years he filled his high and important station; adhering to the maxim he had originally assumed as a guide of his judicial decisions, 'be just and fear not.' What he was as a father, a husband, and a Christian, is deeply engraven in the memory of his surviving family and friends, and will avail long after this frail memorial shall perish and be forgotten—a memorial which is rather in-

tended as a grateful and dutiful offering of conjugal affection and filial piety than a record of his virtues to posterity—died 1789, aged 73 years.”

It should not be omitted that Lord Lifford's scrupulous honesty was unquestioned; and although his salary had been largely increased by successive grants from the House of Commons, yet he left behind him a very moderate fortune. He was indeed more careful to support the dignity of his situation than to realise a fortune, and exercised a constant hospitality, which he conceived became his elevated position. He had the reputation of being a good Equity lawyer. The cases decided by him were collected by his contemporary, Mr. Wallace, by whose son they were published fifty years after his lordship's death.

106. A.D. 1789.—LORD CLARE. The ancestors of John Fitzgibbon Earl of Clare were illiterate peasants. His grandfather's name was Thummoish O'Gibbaun (in English Thomas Fitzgibbon). He was married to a woman of extraordinary abilities, whose acts and deeds were once the theme of universal admiration in her native county of Limerick; and even now, after a lapse of so many years, her sayings are as household words amongst the peasantry of the south of Ireland. Her name was Owenney (in English Norah) Quain, and neither she nor her husband ever spoke the English language. They had three sons—Ion the eldest, John (the father of Lord Clare) the second, and Thomas the third. John, inheriting the talents of his mother, went to St. Omers' far-famed ecclesiastical seminary in France, and there became, according to some, a Catholic priest, and according to others entered upon the theological course, but was never ordained. Be that as it may, he left the college and returned to Ireland, and meeting his younger brother Thomas in Cork, about to proceed to the same place and for a like purpose, persuaded him to abandon that intention, and to become a Protestant and study for the legal profession. Both returned to their father's house and announced the resolution they had formed, which so displeased the old man that he refused to receive them, never became reconciled to them, and left to them at his death no part of his very considerable property. The country people shunned them as they would the plague, and thenceforward they became marked people in the country. Rhymes were composed on them in Irish, both cutting and sarcastic, one of which is still remembered, and which, when translated into English, runs as follows:—"There is no wrath that does not subside, but the wrath of God against the children of Gibbon."

John was called to the bar in 1732, and Thomas in 1743. The former, previous to his call, published a volume of Reports

of cases argued and decided in the King's Bench, Exchequer, and Exchequer Chamber in England—a work which augured badly for the future career of the reporter. Thus Lord Hardwicke placed no reliance upon it, "although some of the cases were," he said, "well reported there." His admission to the bar was violently though unsuccessfully opposed by the ultra Protestant section of the Benchers of the King's Inns Society, inasmuch as he was known to be warmly attached to the faith he had abandoned. In 1738 he was married, as appears by the books of St. Peter's Church, to a Miss Eleanor Grove, but neither are the places of residence nor the names of the parents of either party therein mentioned.

In 1748 his son John Fitzgibbon, the subject of this memoir, was born. At fifteen years of age he entered the University of Dublin, and with him—it was on the 6th of June, 1763—entered Henry Grattan—both destined to play in after years important but widely different parts in their country's history. Young Fitzgibbon was heir to a fortune of £5000 a-year, which his father had realised; but *otium cum dignitate* had no charm for that young man whose ambition and abilities, whether for his country's weal or his country's woe, subsequently raised him to the lofty position he held in the State. In 1772 he was called to the bar, and was in extensive practice in 1774, when his father died; but it was not until 1777 that he arrived at the threshold of political life. In that year, John Hely Hutchinson, Provost of Trinity College, and lately Prime Serjeant, one of the most distinguished of the patriots, and who had unswervingly supported the Catholic cause, was returned for the University of Dublin. Few of the Provosts were more popular than he, even though he had entertained the absurd idea of establishing dancing and riding masters on the staff of the university. This project, however, happily fell through, owing to the general ridicule with which it was received. A petition was presented against Hutchinson's return, and Mr. Fitzgibbon was employed as counsel for the petitioners, and conducted himself so much to the satisfaction of the constituency, that he was, on the unseating of Hutchinson, put in nomination and elected as their representative.

From the day on which he took his seat in the House of Commons until the overthrow of the Irish Parliament he was the unalterable enemy of his country and of her creed. The word Catholic he expunged from his vocabulary—Catholics were to him "papists," the Catholic clergy were "popish priests," and Catholic churches "popish mass-houses!" The grandson of Norah Quain affected to forget that his ancestors had been more Irish than the Irish themselves. A great change was now at hand; the flag of England was then trailed along the

ground in America; French ships swept through St. George's Channel; and the bewildered government committed the defence of the Irish shores to the Irish Volunteers. Sixteen thousand stand of arms were presented to that national guard, and on the 9th of October, 1781, the thanks of the House of Commons was, with one dissentient voice—that of John Fitzgibbon—voted to the Volunteers. But the cup of the wine of the wrath of God was not yet drunk to the dregs by the humbled Crown of England. On the 19th of the same month of October, Lord Cornwallis surrendered with his army at Yorktown in America; disaster followed disaster in quick succession; and it was now plain that England could no longer trifle with her Catholic subjects. A measure was therefore brought into parliament for their relief; but Fitzgibbon was opposed to its passing, and declared that if that Act passed, the Act of Settlement was undone, and the confiscated property of the nation would be thrown into confusion. Alarm was at first created by this opinion, which, however, on examination was found to be groundless. In committee, nevertheless, on the 21st of February, 1782, Fitzgibbon supported the measure, with an insulting support, stating that “whilst it would be improper to allow *papists* to become proprietors of boroughs, there was no reason why they should not possess estates in counties, nor why Protestant tenants holding under them should not enjoy the right of voting for Members of Parliament.” He gave a hollow support to Grattan's motion for the Declaration of Rights, although on a former occasion, in 1780, he had opposed a similar motion.

On the 20th of December, 1783, Mr. Fitzgibbon was appointed Attorney-General for Ireland, and immediately on his appointment opposed a motion brought forward by Flood and supported by Grattan, for leave to bring in a bill to rectify defects in the parliamentary representation, which motion was lost by a great majority. That the measure could meet with aught but defeat can hardly be imagined, when it is remembered that two-thirds of the House of Commons were the nominees of the owners of pocket boroughs, the mere chattels of the great Cromwellian and Williamite families. Exasperated by this failure, an outrageous mob broke into the House, where they created a great tumult, which was at length repressed, and the Serjeant-at-Arms arrested two of the ringleaders, whom the Attorney-General was directed to prosecute. Mr. Flood retired in disgust to England; and on his return, the following year, introduced another Reform Bill, to be once again defeated. An attempt was now made by Flood, Napper Tandy, and others, to get up a national congress, by addressing circulars to the high sheriffs, inviting them to convene meetings of their several bailiwicks, for the purpose of electing delegates who

should meet in Dublin ; but those functionaries were threatened by the Crown with the penalties of the law if they should attempt to do an act which was in direct violation of their duty. Few of them had the hardihood to hold the required meetings. Some delegates indeed were returned, and in October, 1784, met in Dublin. Flood attended their sittings ; but unfortunately his deep-seated hostility to the Catholics caused many to secede from the convention, which was soon dissolved. To make an example for others, the sheriff of the county of Dublin was prosecuted in that year for complying with this writ of sedition (as it was called). He was summoned to show cause why an attachment should not issue against him in the Court of King's Bench. The matter was debated at great length, when, without the aid of a jury, he was fined and imprisoned. Lord Charlemont, though disapproving of Fitzgibbon's politics, pays what would appear an unmerited tribute "to the spirit, and even the wisdom, with which he acted in his capacity of Attorney-General on that occasion." The proceedings, however, against the sheriff were animadverted upon in the House of Commons, and a motion was made on the 24th of February to the effect that "the proceedings of the Court of King's Bench, in attaching the sheriff and punishing him, by sentencing him to be fined five marks and imprisoned for a week, as for a contempt, was contrary to the principles of the constitution, as depriving him of his trial by jury, and was a precedent of a dangerous tendency."

Mr. Curran, to whom Fitzgibbon was personally hostile, rose to speak in support of the resolution, and perceiving that, while he was speaking, the Attorney-General had fallen, or pretended to have fallen, asleep on his seat, he thus proceeded :—"I hope I may say a few words on this great subject without disturbing the sleep of any right honourable member ; and yet perhaps I ought rather to envy than blame the tranquillity of the right honourable gentleman. I do not feel myself so happily-tempered as to be lulled to repose by the storms that shake the land. If they invite rest to any, this rest ought not to be lavished on the guilty spirit."

The Attorney-General replied with much warmth, and accused Mr. Curran of being a "puny babbler." The motion was lost, and the ministry succeeded in defending the conduct of their law officer in Ireland.

The Volunteers had been, in 1785, deserted by their aristocratic leaders, and were daily falling into disrepute. From the first Mr. Fitzgibbon was opposed to that body, though he apprehended, he said, no danger so long as they followed the counsel of Mr. Grattan ; but he never would consent to arms being put into the hands of the papists. "He (the Attorney-

General) was not a bigot, but he stated that the Irish Protestant who would admit Catholics to the use of arms was a dangerous enemy to his country."

Other questions agitated the public mind in 1785. Irish vessels had long traded round the world. Now, however, the British minister, Mr. Pitt, sought, by means of an Act of the British Parliament to make it illegal for Irish ships to pass eastward of the Cape of Good Hope or westward of Cape Horn. This Act, which would have cut off Ireland from all the trade of India, China, and other countries in the East, was denounced by Mr. Grattan in one of the most powerful of his speeches; and a bill was brought into the Irish Parliament to the same effect, but was finally withdrawn. Mr. Flood then moved this resolution:—"Resolved, That we hold ourselves bound not to enter into any engagement to give up the sole and exclusive right of the parliament of Ireland to legislate for Ireland in all cases whatsoever, as well externally, as commercially and internally." This motion was supported by the patriots, but opposed by the Attorney-General (Fitzgibbon), who stated that the resolution of Mr. Flood was an insult to the parliament of Great Britain. "If Ireland," he said, "seeks to quarrel with Great Britain, she is a besotted nation. Great Britain is not easily roused, nor easily appeased." Mr. Curran, whilst he spoke in favour of Mr. Flood's resolution, passed some sarcastic observations on the line of conduct adopted by the Attorney-General, and then followed one of the scenes of eloquent recriminations to which the House was so well accustomed. Mr. Curran's "declamation," observed the Attorney-General, "in pouring forth his witticisms of fancy was calculated rather for the stage of Sadlers Wells than the floor of the House of Commons. A mountebank, with but one-half of the honourable gentleman's talent for rant, would undoubtedly make his fortune. However, I am somewhat surprised he should entertain such a particular asperity against me, as I never did him a favour. But, perhaps, the honourable gentleman imagines he may talk himself into consequence; if so, I should be sorry to obstruct his promotion: he is heartily welcome to attack me. Of one thing I only will assure him—that I hold him in so small a degree of estimation, either as a man or as a lawyer, and that I shall never hereafter deign to make him any answer." Mr. Curran, in reply, said, amongst other things, that he "would never be in a position to retort on the Attorney-General that he gave expressions to witticisms of fancy." The disputants adjourned from the House to Donnybrook-green, there to settle their dispute after the fashion of that day, and, though shots were exchanged, both parties returned "without a scratch," as the reporter of the combat writes. Mr. Flood meanwhile had withdrawn his motion.

All this time the breach between the two countries continued to widen. The government had the power of pensioning its supporters, and exercised that power, loading the pension-list, for the benefit of the most worthless of the community, at a time that the revenue of the country was unequal to its burdens. A motion for liberty to bring in a bill to restrain the government in the granting of pensions was accordingly brought forward by Mr. Forbes, Member for Drogheda, but the Attorney-General "opposed the motion, on the ground that it was a direct and indecent invasion of the royal prerogative; that the principle of the bill went to the most dangerous extent of any bill that had ever come before parliament; it went to rob the Crown of its responsibility in the disposal of the public money, and to convey it to that House, and even to the House of Peers." Mr. Curran denounced the pension-list and the pensioners, "for they toiled not, neither did they spin, and yet they were arrayed like Solomon in all his glory."

In 1786 the Dublin Police bill was carried through parliament by the Attorney-General, and gave an immense amount of patronage to the government. Alarming disturbances took place in the same year in the south of Ireland, provoked, it was said, by the oppression of the Protestant clergy and by the landlords. The Attorney-General, in his place in parliament, blamed the latter as the chief cause of the disturbances, and said, "he knew that the unhappy country-people were ground to powder by relentless landlords; he knew that, far from being able to give the clergy their just dues, they had neither food nor raiment for themselves; the landlord grasped the whole, and sorry was he to add that, not satisfied with the present extortion, some landlords had been so base as to instigate the insurgents to rob the clergy of their tithes—not to alleviate the distress of the tenantry, but that they might add the clergy's share to the cruel rack-rents already paid." Mr. Fitzgibbon then brought in a bill "for the effectual punishment of persons guilty of outrage, riot, and of illegal combination, and of administering and taking unlawful oaths, and for empowering magistrates to demolish Roman Catholic mass-houses, whenever they were used for tumultuous assemblages." This clause, on the remonstrance of Mr. Grattan, was withdrawn; but the Attorney-General, however, "was free to confess that wherever *popish* meeting-houses were made places for combination, they ought to be prostrated."

Civilization in the last quarter of the last century was at an ebb so low in Ireland, that it was without a parallel in Europe; and the trial of George Robert Fitzgerald, at the summer assizes for the county of Mayo, in 1766, reveals a barbarism to us almost incredible. The Attorney-General (Mr. Fitzgibbon),

having resolved to put down at once and for ever this lawless state of the country, proceeded to Castlebar, there to conduct in person the prosecution. The facts of this memorable case, to which we shall add a few particulars of George Robert Fitzgerald's career, are briefly as follows:—

His father, George Fitzgerald, who was in the Austrian service, was married to Lady Mary Harvey, daughter of the Earl of Bristol. This family of the Fitzgeralds was famous for producing characters that left the world in doubt whether they were madmen or men of genius. And those who know anything of the history of the Connaught circuit, during the last century, must know what a singular man the uncle of George Robert Fitzgerald was, whose wife was brought to trial for bigamy as Elizabeth Duchess of Kingston.¹ George Fitzgerald was the father of two sons, George Robert and Charles Lionel. Their mother, Lady Mary, did not long live with her husband; she was too æccentric, and returned to her friends in England; and he, during the remainder of his life, lived with another woman. George Robert, the eldest son and heir, was sent to Eton, where he acquired the reputation of being “deeply read and passionately fond of the classical authors.”

He went, soon after leaving College, to reside with his father at Turlough, and devoted himself while there to the manly sports of the field. After a visit to Paris, he returned to Dublin, and carried off the sister of Mr. Conolly, of Castletown, in the county of Kildare, and married her. She was possessed of a fortune of £10,000.

In Dublin he must have been the pest of society: besides fighting a duel with John Toler (afterwards Lord Norbury, Chief Justice of the Court of Common Pleas), he fired a pistol at the Right Hon. Denis Browne, brother of Lord Altamont, in the open day, in Sackville-street; and on another occasion, in the castle of Dublin, spat at John Fitzgibbon (then the Attorney-General). Fitzgerald, in 1780, took part with those who asserted the legislative independence of Ireland; and he had joined the connexions of his wife and mother in bringing about the great Volunteer movement. Still he was a most exclusive Protestant, and it never entered into his calculations that Ireland extended beyond the pale of his own religion; for he considered that the Roman Catholics had no more right to participate in the independence he asserted for the country than the Helots had to participate in the citizenship of Lacedæmon.

In 1783 his levities, quarrels, and wild doings, shattered the nervous frame of his wife, and she sank in the bloom of youth and beauty into an untimely grave. Her remains, followed by

¹ *State Trials.*

her frantic husband, were conveyed with much pomp and in the depth of winter from Castlebar to Celbridge, in the county of Kildare. Returning to Mayo, he insulted the leader of the Connaught circuit, Serjeant Browne, and challenged his brother, the Right Honourable Denis Browne, to a duel in Westport. When arranging the preliminaries, George Robert fired at his adversary, and missed him. Browne retreated into his house—properly insisting that he would have nothing further to do with an assassin. In the next year, 1784, he married the only child and heiress of Mr. Vaughan, of Carrowmore, in the county of Mayo.

Subsequent to George Robert's marriage with Miss Conolly, a settlement was made by which, in consideration of a sum of £8000 paid to his father, the latter assigned him a rentcharge of £1000 per annum, and settled his whole estate on George Robert and on his issue *male*, and in default of such issue remainder to his father absolutely.

Now it so happened that George Robert had but one daughter by his first wife, and there was no likelihood of issue by his second. This state of things threw great power into the hands of the father, and gave grounds for hope to his younger son, Charles Lionel; hence a jealousy between the two brothers, and a desire on the part of both to secure a personal influence and control over their weak and disreputable parent. Living beyond his income, that parent failed to pay George Robert his annuity of £1000 settled upon him, and an arrear of £12,000 in time accrued. It appears from George Robert's statement, which has not been denied, that an amicable application was made to the Court of Exchequer, that he, as having a prior claim to the other creditors, should become custodee of the estate until the debt was paid, his father being allowed a certain sum for maintenance. It also appears that subsequently the old man, instigated by her with whom he lived, did his best to evade this arrangement, and that in spite of the receiver, who was brought from Dublin to collect the rents, the woman had the wit and management to step in and anticipate the stranger with the tenants, and receive all the proceeds of the estate herself. The father was assisted by his second son, Charles Lionel, and by a Mr. Cæsar French, a county of Galway gentleman, and by Mr. Patrick Randal M'Donnell, who was a solicitor, and colonel of the Mayo Volunteers.

George Robert had made his father a gift of a house near Turlough, and fifty acres of land; nevertheless, the old man threw himself into the power and under the influence of his younger son, and executed long leases, and at low rents, to him and to Cæsar French. Hostile proceedings now became more violent than ever, and conflicting notices were served, as to the

payment of rent, on the tenantry. Meanwhile Mr. French, having got his lease, and being appointed receiver over the whole property, sent a herd of cattle from the county of Galway to stock his new farms. George Robert seized the cattle. Cæsar French thereupon assembled a faction of his family, friends, and followers in the county of Galway, some of them men of rank and fortune, to the number of 400, all well armed and equipped, and proceeded to Turlough, where he encamped, determined to seize his own cattle, or take away an equivalent; but the enemy was not to be taken unawares, for George Robert had removed his stock, and had so well secured himself and his property, that all the Galway forces could do him no injury. Cæsar French and his forces, having remained some time unmolested and idle, found it necessary, in consequence, to retreat, when George Robert sallied forth, hung on their rear, and succeeded in cutting off the baggage, while the main body of the Galwegians was a mile ahead. Meanwhile a scout came up and informed French of the attack, who at once collecting the *élite* of his mounted troops rushed back to the rescue, and found Fitzgerald dragging off his booty. A battle ensued, and George Robert, after a short encounter, finding that he and his people were getting the worst of it, abandoned his prey and his prisoners of war, and retreated in good order to Turlough.

The father, having thus thrown himself into the hands of the enemies of his eldest son, found the latter ready and able to retaliate. George Robert refused to pay the stipulated maintenance, and old Fitzgerald, in consequence, filed a bill against him in the Court of Chancery. But George Robert, disregarding the forms of that high Court, gave himself little trouble about its decrees. A writ was issued, empowering the father to arrest his son until the maintenance was duly secured to him. To attempt taking him at Turlough was madness; he therefore waited until the Ballinrobe summer assizes of 1783, when, watching his son, and seeing him on the grand jury, he instructed his counsel to apply to the Judge for liberty to arrest him there, inasmuch as it was impossible to so anywhere else. This the Judge granting, the old man and his younger son, Charles Lionel, proceeded to the grand jury-room to make the arrest, when lo! he was gone; for he had had intimation of what was going on in Court, and had slipped out of the room, and made his escape to Turlough as best he could.

And now George Robert, having been informed that his father intended leaving for Dublin at the close of the assizes, waylaid him on the road, and carried him by force to Turlough, where he kept him imprisoned in a fort, guarded by a well-armed troop of 200 men, with the view of preventing his making leases at an undervalue of the lands. For this act, the Solicitor-

General, Hugh Carleton, who went as *locum tenens* Judge of Assize, spring, 1784, sentenced him to be fined £1000, and imprisoned for three years.

George Robert, soon after liberated through the influence of Mr. Conolly, refused to give up his father, and accordingly his brother, Charles Lionel, brought the matter under the notice of the government, which gave orders for his instant release. To back those orders, a well-organized army, under the command of Major Longfield, received the route from Dublin to Castlebar; but George Robert spiked all his cannon on the fort, and, taking his father with him, retreated towards Sligo, being pursued by the Mayo Volunteers, under the command of his hated antagonist, Patrick Randal M'Donnell. He hid himself and his prisoner in a small island off the bay of Sligo. Here his father, desiring to regain his liberty, proposed to his son that if he would pay £3000 to clear his debts, and give him a small yearly stipend, he would convey to him the reversion in the estate, and exonerate him from all blame as to his forcible detention. To this George Robert assented, and they proceeded by unfrequented roads to Dublin; but the father, as soon as he was placed in his old lodgings in Castle-street, absolutely refused to perfect the deeds he had agreed to.

We have mentioned Patrick Randal M'Donnell. Bitter enmity had sprung up between him and George Robert Fitzgerald, for whom in their many antagonisms he had shown himself more than an equal match. Accordingly, in self-defence, and to retaliate on a foe from whom he had suffered so many defeats, George Robert looked about for an ally, and not finding any Irishman able and willing to throw in his lot with him, invited an English attorney, named Timothy Brecknock, to be his law adviser and companion; and within the compass of the British isles he could not have selected a more extraordinary or more dangerous associate.

Timothy Brecknock, son of the Protestant Bishop of St. David's, had been a student of Jesus College, Oxford, and of one of the English Inns of Court, for he was destined in early life for the bar. He had changed his mind, however, and finally became an attorney: a profession to which he was a disgrace, for he gloried in tricks, in falsehoods, and in evasions unworthy of either of the great branches into which the profession of the law is divided. And yet Brecknock was a man of ability, and of great dexterity in the defence of prisoners; and as his misguided abilities were the cause of the ruin of George Robert Fitzgerald, and of his own, we think it may be well to turn back for a moment, and relate an anecdote of his earlier life.

A man had been committed to the Old Bailey for highway

robbery, and there was every reason to believe, from the credibility of the witnesses, that the prisoner was indeed a knight of the road. Brecknock waited upon him in prison, and stated that he was ready to become his counsel, but required that he should, in the first place, confess to him *honestly*, whether or not he had committed the crime imputed to him. This the fellow at once did. He stated that he had stopped a gentleman, travelling in his chariot, at half-past eleven o'clock at night; that he had robbed him of thirty-seven guineas, but not of his watch, as it was not his practice to meddle with such discoverable things; that, as it was a bright moonlight night, he had taken the precaution of wearing a crape mask, but that it unfortunately fell off when he was in the act of forcing open the chariot door, and that he was therefore apprehensive lest one or both of the gentleman's servants had remarked his features; that after he had effected the robbery he rode away on his own charger, but finding that the coachman had mounted one of the carriage horses, and was stoutly pursuing him down a lane, he leaped over a paling which was at the end of it, but which the draft horse was unable to clear, and that in this way he had got into a gentleman's demesne, and thence, leaving his horse after him, escaped on foot to London. The horse, knowing the road, returned to his own stable. In the course of five weeks afterwards he was riding the same animal through Whitechapel, when he was recognised by the footmen of the gentleman whom he had robbed, was arrested, and committed to prison. This was the substance of his confession.

The day of trial came on, and Brecknock appeared for the prisoner, having received one hundred guineas to defend him. The witnesses for the prosecution unhesitatingly swore to the identity of the prisoner. But Brecknock, above such paltry defences as an *alibi, et hoc genus omne*, had everything for several weeks prepared; false almanacs were scattered all over the city, in every neighbouring public-house and inn; he had had the true almanacs removed and replaced by incorrect ones, in which the age of the moon was altered, and by which it appeared that the moon did not rise on that night until three o'clock in the morning, three hours and a-half after the robbery; while, in fact, as would have appeared by true almanacs, the full moon had risen at seven o'clock on that evening. The jury had placed before them what appeared to be a correct almanac, and, of course, believing that the night was too dark for recognition, acquitted the prisoner. A few days afterwards the imposition was discovered, but the highwayman was again on the road, and of course could not be tried a second time for the same offence, and Brecknock "was not answerable for the misprints in the almanac."

The escape of this malefactor was the talk of London. Brecknock's ability as "a rogue and an advocate" was in everybody's mouth; and the most virtuous gave the learned scoundrel credit for his ingenuity. Brecknock next became known by his writings; and in the midst of the doubtful notoriety which he had acquired, George Robert Fitzgerald arrived in London, and pressed him to accompany him to Ireland, there to protect both himself and his property from the machinations of his brother and of Patrick Randal M'Donnell. Brecknock accordingly set out for Ireland, and arrived at George Robert Fitzgerald's residence in Dublin within a fortnight after he had left London.

Before proceeding to relate the trial of Fitzgerald, we have to bring on the stage another individual connected with the fate of that wild and wicked man. This was Andrew Craig, or, as he was called in Mayo, Scotch Andrew; for the Connaught people, not being able to distinguish the dialect of the north-east of Ireland from that of Scotland, assumed that he was Scotch, though in reality he was a native of Carrickfergus. He was an intelligent young fellow, and early in life had been apprenticed to a blacksmith; but, disliking all restraint, ran away from his master, after having acquired a very superficial knowledge of farriery, of which notwithstanding he availed himself so well, that he was frequently employed in the capacity of stable-boy, groom, and jockey. He had been in the employment of several families in the north of Ireland, and thence passed into the service of George Robert Fitzgerald, who perceived in him a daring boldness, a savage ferocity, a temper that would lead him to anything, however cruel, and an insatiable thirst for blood.

Having thus told who the leading characters in Fitzgerald's service were, we shall now proceed with our narrative.

Shortly before the 21st of February, 1786, Patrick Randal M'Donnell was passing close to Turlough, from Castlebar to his residence, Chancery Hall, when he was fired at and wounded in the leg. Escaping, however, with his life, he swore informations against a retainer of Fitzgerald's named Murphy, who was accordingly arrested and confined in jail, but who was finally discharged without having been brought to trial. And now it came to Fitzgerald's turn to act. Taking Murphy's case in hand, he caused informations to be drawn up and sworn before Mr. O'Malley, a magistrate, against M'Donnell and others, for an assault committed on Murphy, and upon these informations procured warrants to issue for the committal of the parties accused; but these warrants could not be executed for some time, owing to M'Donnell's taking the precaution of confining himself to his house in Castlebar. At length he ventured to Chancery

Hail, and on his return the same evening he was seized by Fitzgerald's men, and brought, together with his followers, Hipson and Gallagher, prisoners to Turlough House, where he was kept until the following morning, when the three were sent forward towards the jail of Castlebar under a strong escort, of whom Scotch Andrew was the leader. M'Donnell was mounted, and a man led his horse, while Gallagher and Hipson were tied together. Not far from Turlough, and while passing along the park, shots were fired from the other side of a wall at a place called Gurth-ne-fullah. The cry of a rescue was at once raised by Fitzgerald's party, and then, by the orders of Andrew Craig, the prisoners were fired upon. Hipson fell dead on the spot, and M'Donnell was wounded in the arm. Scotch Andrew then came up, and M'Donnell, in piercing tones, implored of him to spare his life, and promised him in return one hundred acres of the greenest land on his estate. "Remember, Andrew," said he, "life is all I ask—life—life—and you will recollect this blessed act when you yourself are dying."

"If you were my mother," replied the fiend, "you shall have the contents of this," at the same instant discharging both barrels, the muzzles of which all but touched the body of the unhappy man. In a moment M'Donnell lay dead at his feet. Gallagher, the other prisoner, was slightly wounded, and was afterwards taken to Turlough House. Now all this, it was said, was done by the advice of Brecknock, who foresaw that M'Donnell's friends would come out from the town, which was but three miles off, and rescue him out of their hands; and he, from some confused notion of the law, advised that if the prisoners were in custody of the guard, the guard were justified in shooting them in case of an attempted rescue; and he read to Fitzgerald, in support of this proposition, an extract out of some book on criminal law.

On the 10th of June, 1786, the trial for this murder commenced before Chief Baron Yelverton and Baron Power. The Attorney-General, with Messrs. James O'Hara, Francis Patterson, Ulick Burke, and St. George Daly, appeared as counsel for the prosecution; while Messrs. Stanley, Colbeck, Blossett, George Joseph Browne, Owen, and James Darcy defended the prisoner.

Fitzgerald was arraigned, "for that he, with another, not having the fear of God before their eyes, but, being moved by the instigation of the devil, did, on the 21st of February, 1786, of his malice prepense, wilfully, traitorously, and feloniously *provoke, stir up, and procure* one Andrew Creagh, otherwise Craig, and a number of others (some of them at present unknown), to slay and murder one Patrick Randal M'Donnell, and one Charles Hipson, then and there subjects of the king,

and who, by the aforesaid provocation, stirring up, and procurement, were assaulted at *Gurtnefullagh*, with certain guns of the value of five shillings, each and every of the said guns being charged with gunpowder and leaden bullets, and several mortal wounds inflicted on them, of the depth of four inches, and the breadth of half an inch, contrary to the peace of our said lord the king, his crown, and dignity, and against the form of the statute in that case made and provided, of which mortal wounds they then and there instantly died," &c.

Mr. Stanley objected to the prisoner at the bar being tried for provoking and stirring up others to commit murder, until these were first tried and found guilty of the murder. Mr. Fitzgerald was about being tried as an accessory before the fact, and that before the conviction of the principal. Even in cases of high treason, where accessories are principals, the principal must be tried before the accessory, and, as soon as the principal is convicted, then the accessory is tried as a principal.

The Chief Baron confessed that he felt some difficulty on the question, whether Mr. Fitzgerald's offence as laid in the indictment was an accessorial offence, or a distinct and substantive one. If the latter, there was no objection to the trial's proceeding; but if his offence were only accessorial, then he ought not to be put on his trial until the principals were convicted, and therefore, he entreated the Attorney-General, lest any room should be left for doubt, to consent to discharge the jury in this case, and to try one of the principals first.

The Attorney-General said that the offence for which the prisoner was indicted was made a distinct substantive offence. The Act of Henry VII. goes so far as to make the procuring of the death of a subject tantamount to procuring the death of the king. So that the accessory becomes, as it were, a principal, in the same way as he would in high treason.

The Act does not declare the crime of murder to be high treason, but attaches the penalties of high treason upon the persons of those who shall be convicted of the offence. Suppose the party committing the murder to be an idiot or lunatic, or suppose him not amenable—suppose that he is killed in the affray, will it be contended that the man that incited the committal of the murder is not to be tried at all? But now the prisoner has been given in charge to the jury, and he must be either convicted or acquitted, and he should have made this objection before he was given in charge, and by permitting himself to be given in charge he has waived the objection.

The Court then ruled with the Attorney-General, and the case proceeded.

Mr. St. George Daly opened the indictment, and the Attorney-General stated the case. The two important witnesses

against Fitzgerald and Brecknock were Andrew Gallagher, one of M'Donnell's party who had escaped, and Scotch Andrew. Gallagher deposed that, on the night on which he (along with M'Donnell and Hipson) was brought to Turlough, and confined in a room over the stairs, he overheard, through a broken pane, Fitzgerald and Brecknock conversing and giving directions to the men, and that one of the directions was, "that if they saw any rescue, or chance of a rescue, to be sure to shoot the prisoners and take care of them;" that when these orders were given, Fitzgerald said to Brecknock, "Ha! then we shall soon get rid of them now;" and Brecknock replied, "Oh! then we shall be easy indeed;" and that after the guard was arranged, Fitzgerald called out to Scotch Andrew, "Andrew Craig, be sure you kill them, do not let one of the villains escape."

Scotch Andrew next ascended the witness-table, and when this cold-blooded murderer made his appearance as an approver, a shudder seemed to pervade the entire crowd. Nothing daunted, however, he gave his testimony with the coolest effrontery. He not only corroborated Gallagher's evidence, but also swore to the private directions given by the prisoner Fitzgerald, as the party was moving away from Turlough House. He then swore that the plan chalked out for his victims' destruction was this: to charge a gun with snipe shot, and then to send on a man with it, who should fire from the park wall, making no distinction between friend or foe, as the shot would smarten them up to their business, and could do little harm to their party, whilst some of them might think it a real rescue. This plan, he stated, was accordingly acted upon. He next admitted, without a shadow of remorse for the terrible deed, that he himself shot M'Donnell through the head, as he lay maimed and defenceless on the bridge of Kilnecarra.

His statement was strengthened by the evidence of another of the accomplices, as well as by that of the magistrates who had taken his voluntary confession, immediately after his transmittal from Dublin; and this closed the evidence for the prosecution.

For the defence three warrants, signed by Mr. Bollingbroke and Mr. O'Malley, against M'Donnell, Hipson, and others, and directed to William Fulton specially, were put in evidence, with a view to show that the murdered men had been legally in the custody of Fulton.

The Rev. Mr. Henry, the Presbyterian minister of Turlough, now came forward to prove what he was pleased to designate the insolence of Gallagher and Hipson on their being arrested and conveyed to Turlough. He also swore that accommodation and refreshments were offered to them; and that although he

was up early on the morning of what he termed *the accident*, he had heard no directions given to the guard.

He was followed by a man named Love, whose testimony was that he saw about twelve armed followers of M'Donnell inside a wall adjoining Gurtnefullagh, early on the fatal morning, and that he heard them state, as he lay hidden behind a thorn-bush, that if M'Donnell came they would soon free him by shooting Fitzgerald.

The defence closed, and the Chief Baron charged the jury with much ability. He was followed by Baron Power, whose great information as a criminal lawyer gave weight to every remark that fell from him in his lengthened charge. Suffice it here to say, that the bench conducted the trial with dignity and temper. But Mr. Fitzgibbon surpassed himself in acerbity and flippancy. On one occasion he so far forgot himself, or rather his station, as to call Mr. Stanley (the leading counsel for Fitzgerald) Mr. Tautology Puzzlepate. Stanley retorted, and the law lost much of its dignity when two such men—two leaders in the profession—were allowed thus to exercise their wit in the presence of the representatives of justice, at that awful moment when the grave was opening beneath the feet even of a guilty fellow-creature. The jury convicted the prisoner, and he was at once executed.

Brecknock was next put on his trial, the Attorney-General prosecuting. The case against him was, that it was he who had advised George Robert Fitzgerald to entrap M'Donnell and Hipson into his power by means of the warrants granted for their arrest, and that it was he who had planned the mock rescue, and had advised that M'Donnell and his party should be shot if a rescue were attempted. The jury found him guilty, and he was hanged on the next day.

The blood-stained Assizes at Castlebar having terminated, Fitzgibbon resumed the cares of government. In the month of August, 1786, he spoke in the House of Commons on the tithe question, admitting the evils that arose from absentee rectors, pluralist parsons, and merciless tithe proctors. He deplored the system, and regretted that "the clergy" had caused one hundred and twenty processes to be issued against the Catholic peasantry of the county in Limerick alone. In the regency question of 1789 Fitzgibbon took a leading part against those who shared in the opinion that the Prince of Wales should as Regent be invested with the plenitude of royal power. We have already told how the Viceroy declined to forward the almost unanimous address of both Houses. Fortunately the threatened disruption of the two kingdoms came to an end by the recovery of the king: "for in those days the king lifted up his eyes to heaven and his

senses were restored to him, and he blessed the Most High, and he praised and glorified Him that liveth for ever and ever ;” “and his nobles and his magistrates sought for him, and he was restored to his kingdom, and greater majesty was,” as in the days of Nebuchadnezzar, “added even unto him.” His Majesty went in state, surrounded by his court and his ministers, to St. Paul’s, “to magnify and glorify the king of heaven, because those that walk in pride he is able to abase.”

But the recovery of the king might be followed at any moment by a relapse, and now was the opportunity for preventing a recurrence of the regency address and of any similar disputes. Mr. Fitzgibbon was resolved to break down all opposition in the House of Commons, and to do this squandered £500,000 of government money in bribery—open, shameless, and bare-faced. Under his advice, boroughs and parts of boroughs, votes, titles, and peerages were disposed of at a regular tariff in the open market, while the proscription of enemies and the loss of place and preferment was to go hand-in-hand with the reward of service. The Duke of Leinster was then Master of the Rolls, and His Grace affixed his name to a solemn declaration (signed by twenty peers and thirty-seven commoners, who had joined in the address to the Prince of Wales), binding themselves to make government impossible should the viceroy venture to punish any of them for their late vote, by loss of office or place. Fitzgibbon was, however, not to be intimidated. The Duke of Leinster was at once dismissed from the Rolls; William Ponsonby, brother of George Ponsonby (afterwards Lord Chancellor) was also dismissed from an office which he held, and a dozen other high officials were treated in like manner. The pension list at the same time was swelled to £80,000 a-year.

Fitzgibbon, in the universal desire for place, was not unmindful of himself. The increasing years of Lord Lifford, his debility, and rumoured resignation, were not unheeded by the Attorney-General, who accordingly, when in London, called on Mr. Pitt and on the Lord Chancellor of England in reference to the matter. This appears from the following extract, taken from Mr. Fitzgibbon’s letter to the Lord Lieutenant of Ireland, the Marquis of Buckingham, on the subject:—

“No. 5, ARLINGTON-STREET, LONDON,

“6th Oct., 1788.

“MY DEAR LORD,—Immediately after my arrival in England I saw Mr. Pitt, and mentioned to him that I had your Excellency’s authority to say that Lord Lifford had, a very few days before he left Ireland, intimated a wish to resign the Great Seal. Under the impression of the opinion you were so good to give

me, I did not go further than to request of Mr. Pitt that he would apprise me of any vacancy which might happen, in the first instance, that I might have a fair opportunity of stating my claims, which I considered to be pretty strong, on the king's government, not to be passed by in any promotion that might take place in the line of my profession. This he has promised to do, but I have not heard from him since. However, I waited upon the Lord Chancellor of England a few days since, and he told me that Lord Lifford had, when he was in town, intimated his wishes to Mr. Pitt, as he had done to your Excellency, not to return to Ireland. I am confident, however, that nothing is finally arranged, either with respect to accepting Lord Lifford's resignation or appointing a successor to him, or I should have heard from Mr. Pitt. The Chancellor's reception of me was very flattering, as he was pleased unequivocally to declare his good opinion of me as a public and a professional man; and from what fell from him, I have reason to suppose that, with your Excellency's support and Mr. Pitt's approbation, I shall not meet any opposition from him.

"I have the honour to be, my Lord,

"Your humble Servant,

"JOHN FITZGIBBON."¹

Although the death of Lord Lifford occurred on the 28th of April, 1789, Mr. Fitzgibbon was not appointed Chancellor until the 13th of June following. He was immediately raised to the peerage, as Baron Fitzgibbon, of Conelloe, while the higher titles of Viscount Fitzgibbon and Earl of Clare were subsequently conferred on him in the years 1793 and 1795, respectively. Entering on his office with a splendour far exceeding all precedent, his establishment was gorgeous, his entertainments magnificent. His family connexions absorbed the patronage of the State, and he became the most absolute subject that modern times had seen in the British islands. Fastidious, disdainful, and overbearing in his manner, this reviler of his country, and enemy of the race from which he had sprung, carried with him to the bench that arrogance and sarcasm which had rendered him the most unpopular man that ever filled the office of Attorney-General for Ireland. Anecdotes unnumbered are told of his haughty demeanour on the bench. He detested Curran, and did all in his power to drive him from practice in his Court, but Curran was an over-match for him. It is related that one day when it was known that he was to make an elaborate argument in Chancery, Lord Clare brought

¹ Duke of Buckingham's *Memoirs of the Court and Camp of George III.*, vol. i., p. 424.

a large Newfoundland dog upon the bench, and during the progress of the argument lent his attention much more to the dog than to the speaker. At length the Chancellor lost all regard for decency, and turned himself quite aside in the most material part of the case, and began to fondle the animal. Curran stopped at once. "Go on, go on, Mr. Curran," said Lord Clare. "Oh! I beg a thousand pardons, my lord; I really took it for granted that your lordship was *engaged in a consultation*." On another occasion, when pleading the cause of his client before the Chancellor, Mr. Curran happened frequently to make use of the words "also" and "likewise," drawing a distinction between them. Lord Clare interrupted by saying, "Mr. Curran, it appears to me that you draw a fanciful distinction between the words that to me always appeared synonymous?" "No fanciful distinction, my lord," replied Curran, "as I think I shall show your lordship in a moment. My lord, the great and good Lord Lifford for many years presided over this Court, which he adorned; you *also* preside over it, but not *likewise*."

The new Chancellor immediately took his place in the House of Lords, and as Speaker of that House bore down all opposition. The peers, bewildered by his astounding rhapsody, terrified by his unrestrained invective, and prostrate by his contemptuous irony, were as puppets in his hands. But he had learned as statesman a lesson from a neighbouring country. On the 21st day of January, 1793, Louis XVI. perished on the scaffold, and in the same year Lord Clare supported a measure for the relief of "His Majesty's *popish* or Roman Catholic subjects of Ireland." On the other hand, Lord Charlemont, the chieftain of the Volunteers, voted against any concession whatever to the Catholics! Lord Clare's speech on that occasion, powerful and insulting, is reported in the *Irish Parliamentary Debates*.

The same year in which the Roman Catholic Relief Act passed, Lord Clare introduced another bill into the House of Lords (known as Lord Clare's Convention Act), for the purpose of preventing "unlawful" assemblies under the pretence of preparing or presenting public petitions or other addresses to His Majesty or to parliament. And this Act it was that afterwards prevented O'Connell from calling together the council of "Three Hundred."

As Belfast had been the cradle of the Volunteers, so also was it the birthplace of the society of the United Irishmen, whose object was to bring about parliamentary reform. This great and formidable movement was at first shared in by the Catholics over the whole country, and by the Presbyterians of the North,

whose clergy openly displayed their hostility to England by praying for the success of the French arms.

Amongst the prosecutions that followed each other with unexampled rapidity, in the year 1794, not the least exciting was that of Archibald Hamilton Rowan, for an address to the Volunteers adopted at a meeting of the United Irishmen, of which he was secretary, and which was held nearly two years before. He had gone on the business of the society to Scotland, and was there arrested on a warrant sent after him by Lord Clare. Though ably defended by Curran, who made one of his most brilliant speeches on that occasion, he was convicted of seditious libel, and sentenced to two years' imprisonment, and to pay a fine of £500. These proceedings increased the popular ferment, and an address from the Society of United Irishmen was presented to Mr. Rowan in prison; but on the 1st of May he managed to escape; and although £1000 were offered for his apprehension, he succeeded in making his way to France, and thence to America.

Whilst undergoing imprisonment for this misdemeanour, a charge of high treason had been preferred against him. If found guilty, his estates would escheat to the Crown, and his wife and children would be reduced to beggary. Lord Clare was moved to compassion towards her, and wrote to her that, though her husband's trial must proceed, still all his (Lord Clare's) interest at the Castle would be exerted to preserve the estates for his family; and it is a matter of history, that after the escape from prison, the Chancellor gave Mrs. Rowan letters that facilitated her journey to join her husband. Further, it was through his interest, writes Lord Castlereagh, that Rowan was secured a refuge in Denmark—that he subsequently obtained his pardon, and a reversal of his attainder, and the restoration of his estates of between seven and eight thousand a-year.

Whilst the horrors of the French Revolution alarmed the nations of the world, during the last decade of the last century, the British ministry felt uncertain what policy to adopt in Ireland. At length, in January, 1795, Lord Fitzwilliam was sent over as Lord Lieutenant, with the avowed policy of Catholic emancipation, in the most unrestricted meaning of the term, and he informed the Chancellor that it was his intention to give Mr. Grattan his fullest support. The Chancellor expressed his alarm at this new policy of Mr. Pitt's.

Mr. Grattan then introduced his Catholic Relief bill, which was supported by multitudes of Catholic petitions, and unopposed by one Protestant petition, and the hour for emancipation, it was universally believed, had at length arrived. Expectations were raised to the highest pitch; but lo! Lord Fitzwilliam

was suddenly, and before he had been two months in Ireland, recalled, and no more was heard of Catholic emancipation as a government measure for nearly five-and-thirty years. To this recall of Lord Fitzwilliam may be traced much of the anarchy through which the country was doomed subsequently to pass. Fitzgibbon and the Speaker of the House of Commons—the two most vigorous opponents of emancipation—were named Lords Justices. The former, the object of popular execration, was attacked in Dame-street; heavy paving-stones, one of which struck the Chancellor on the forehead, were flung through the carriage window, as his coachman drove furiously through an angry and well-dressed crowd; the military were called out, two men were shot dead, and many were wounded. Rebellious publications were then scattered broadcast through the country, and secret societies arose in all the great towns, and found their way even into Trinity College. The Board meanwhile took active measures to crush this spirit of revolution within their jurisdiction; but revolutionary manifestos were nevertheless dropped into the students' letter-boxes, and one was even sent to Lord Clare, who was then the Vice-Chancellor of the university. It was as follows:—

“ To the Independent Scholars and Students of Trinity College.

“ Whereas we have learned with the utmost concern that the system of TERROR and COERCION, so pregnant with calamity and so unfortunately pursued through the kingdom, has been adopted within the walls of our university, and the severest collegiate penalties inflicted on supposed offences, which, even on their full conviction, would be wholly disproportioned; and that the fundamental principles of justice are violated by deciding on secret testimony, and refusing to confront the accuser with the accused,—now we, the independent scholars and students, feeling just indignation that the liberty of opinion which we even yet might claim as members of any other civil society should be totally annihilated—that to breathe a sigh for the sufferings of our country, or a censure on those flagitious measures which have caused them, and which our conscience must condemn, is followed by expulsion; and feeling most poignantly, as we do, that state of subordination to which the severity of academic discipline has reduced us, precluding all possibility of redress, or even the right of the oppressed to complain, we yet do resolve that no intimidation shall alter our principles; that we will participate in pursuing, with undeviating aim, that redress which the miseries of our bleeding country demand.”

The document then closed with a denunciation of spies and informers.

A visitation to inquire into the state of the university was therefore determined on, and was fixed to take place on Thursday, the 19th of April, 1798, in the Dining-hall of Trinity College. After the usual and empty ceremonials attendant on visitations, Lord Clare thus spoke :—

“ The prevalent reports respecting the state of the university have induced the visitors to inquire whether the disaffection imputed to the College was founded in reality, or was a rumour or surmise. Appointed to the high office of superintending the conduct and promoting the welfare of that College, he should neglect an important duty if he were to suffer it to continue stained with the infamous imputation of disaffection and rebellion, if unfounded, or permit any guilty member thereof to poison and destroy the prospects of the uninfected. His duty, therefore, to what he considered the happiness of the students, without referring to the more general consequences to society, from the lettered portion of the rising generation cherishing and acting on these devastating principles which had destroyed the peace and almost annihilated the morals of Europe, indispensably required of him to investigate and suppress any serious disorders. He found great probability had been given to the report in circulation by a rebellious publication, purporting to be a resolution of the independent scholars and students of the University, and it behoved all who heard him to acquit themselves of any concern therein. Such members as acted with want of candour, and refused to exonerate themselves from the treasonable charges made against the University, and which the abominable paper he held in his hand so much warranted, he was determined to remove from the University, and adopt the necessary measures to prevent them from contaminating the youth in England and Scotland, by representing to the governors of their Universities their dangerous principles, and so excluding them from admission. In one of those secret societies, the formation of which he knew of in College, a system of assassination had been recommended, and a proposal made to collect arms. The first proposal was considered, but adjourned to the next meeting, when it was negatived by a small majority. The second was carried, and acted upon.”

His lordship then concluded by a declaration of his “ intention to punish with severity the encouragers and abettors of sedition and treason, and more especially the miscreant authors of that wicked paper, whom he was determined to detect and punish. It had not only been thrown into every letter-box in College, but audaciously flung at his own head in his house, by way of menace and defiance.”

The visitation lasted for three days; searching inquiries were made into the political acts of every member of the Uni-

versity ; and the result was, that while many—amongst whom was Tom Moore—were acquitted, no less than nineteen young men were, on Lord Clare's recommendation, expelled, and one of the Fellows was suspended from his fellowship for three years.

In the conduct of the visitation, Lord Clare's demeanour was characterised by his usual arrogance. When a student hesitated to answer or be sworn, he frequently asked him "if he were a fool or a madman?" and if, in his examination, he indulged in the expression of any democratic or popular sentiment, the Vice-Chancellor's observation was, "the young gentleman seems to have his reason affected."

In 1797 Mr. George Ponsonby, afterwards Lord Chancellor, brought forward his motion for the reform of parliament, but the influence of the Lord Clare was too strong, and the motion was rejected ; and Mr. Grattan and other leading men of the opposition seceded in consequence from the House of Commons. The government had now (1798) in their service multitudes of spies, many of them sworn members of the society of "the United Irishmen." Amongst them was one Thomas Reynolds, a Dublin trader, who had purchased Kilkea Castle, in the county of Kildare, and who, from the fortune he had acquired, commanded considerable influence with "the society." Lord Edward Fitzgerald and Oliver Bond were, as is well known, amongst the leaders of that body. Through Reynolds the government were apprised of the then intended insurrection, and a warrant was accordingly granted for the apprehension of Lord Edward Fitzgerald. That Lord Clare was capable of merciful acts is put beyond all doubt by his merciful and humane bearing towards that unfortunate nobleman.

Apprised, as the government was, of all his plans and dangerous propositions, the Chancellor forewarned his friends, offering admonition and almost amnesty if he even then desisted. "Will nobody," he wrote, "reason with that rash young man? Will nobody, even now, persuade him to leave the kingdom? I pledge myself every port shall be left open to him." But the offer came too late, and to retrace his steps appeared to him then impossible. "It is now out of the question," he said ; "I am too deeply pledged to withdraw."

The government did actually afford every facility to Lord Edward to leave the country. A search was made on the 12th of March at the Leinster House, Merrion-square, but he had escaped, leaving behind him a paper advising the insurgents how to act in the city towards troops advancing through the streets.

On the arrival of the officer who had been in search of Lord Edward, bringing with him the papers found at Leinster House, a meeting of the Privy Council was immediately convened, and the Chancellor was summoned from the Courts to attend it. Fling-

ing off his robes, he dashed out in a violent hurry, and was hooted and abused by the mob as he passed along. He cursed at them in return, pulled out his pistols, and with a ferocity and intrepidity of character for which he was remarkable tore through the crowd, swearing like a madman.¹

On the 18th of May following, Lord Edward was arrested at No. 153, Thomas-street in the city of Dublin. Severely wounded in the struggle, he was removed to Newgate, where none of his friends were permitted to see him until a few hours before his death. The following is a copy of a letter written by Lord Clare to Lord Henry Fitzgerald, in reply to an application that he might be permitted to see his unfortunate brother:—

“10, ELY-PLACE, 3rd June, 1798.

“MY DEAR LORD,

“Be assured it is not in my power to procure admission for you to Lord Edward. The extent and enormity of the treason which has occasioned so many arrests make it essentially necessary for the preservation of the State that access should be denied to the friends of all the persons now in confinement for treason. I have just heard that Lord Edward’s life is in danger. Perhaps if he should get into such a state as will justify it, your request may be complied with; and believe me it will give me singular satisfaction if you can be gratified. You may rest assured that his wound is as well attended to as it can be.

“Yours always truly, my dear lord,

“CLARE.”

His aunt Lady Louisa Conolly indeed was enabled to visit him, owing to the kindness of Lord Clare, to whom she made application after having been refused permission to see him by the Lord Lieutenant, Lord Camden. She drove from the Castle direct to Lord Clare’s house. He was at dinner when she called; but hearing who the lady was who wished to speak with him, he rose from table, went out and stood bare-headed at her carriage-door. She asked for an order to see Lord Edward, which he expressed his inability to give, as there was a special rule of the Privy Council to the contrary; “But I know,” said he, “of no decision which prohibits my accompanying you.” He did accompany her, and remained patiently for three hours in an outer apartment of the prison, while she wept and prayed beside her nephew’s bed. Before taking his departure, the Chancellor approached where Lord Edward lay, and stretched out his hand to him. Poor Lord Edward’s hands and arms were bruised and wounded, and he said, while a humourous smile lit up his countenance, “I cannot shake hands with you,

¹ *Journal of Lady Sarah Napier.*

Lord Clare, as mine are, bruised and wounded, so that I must only shake a toe."

Soon after this interview his mind began to wander, and he spoke of his wife and children, and raved about men and arms, and at two o'clock on the morning of the 4th of June he was a corpse! It is pleasant—if there be any pleasure in the history of those dreary times—to have to record this act of courtesy and charity on the part of the Earl of Clare. "That he had a kind heart," writes Sir Jonah Barrington, "is certain:" look at his conduct in the Sheares' case—look at his conduct in Hamilton Rowan's case.

John and Henry Sheares lived at a house in Lower Baggot-street (No. 128). They were brothers—both members of the bar, and both, it was said, deeply imbued with the atheism of that day. On board the packet between Calais and Dover, they were crossing—it was on the 21st of January, 1793—when a young man, returning from the College of Douay, and wearing a tricolour in his hat, heard them relate to their fellow-passengers how they had just come from Paris, where they had seen Louis XVI. perish on the scaffold. On being asked, "in God's name, how could they stand by at such a scene?" they replied, "love of the cause." The young man at once tore this tricolour from his hat, and stamping it under foot, threw it into the sea—his name was Daniel O'Connell. The Sheares' were deeply implicated in the rebellion of '98. On their table was found an address to be issued immediately after the capture of Dublin Castle, by which it appears that the Privy Council, especially Lord Clare, who was the chief object of the hatred and fear of the United Irishmen, were to be killed or taken prisoners. Both the brothers were tried on the 12th of July for high treason, were found guilty, and sentenced to death. Henry Sheares after his sentence wrote to Sir Jonah Barrington, imploring of him to save his life. "Tell the Chancellor," he said, "that I will pray for him for ever, and that the government shall ever find me what they wish. Oh, my family! my wife! my children! my mother! go to them. Let them throw themselves at the Chancellor's feet. I have been duped, misled, deceived, but with all the intention of doing good." Sir Jonah waited on Lord Clare, who read the letter, and was deeply moved. He read it attentively and exclaimed, "What a coward he is! what can we do?—John Sheares cannot be spared. Do you think Henry can say anything or make any discovery that can authorize the viceroy in making a distinction? If so, Henry may be reprieved. Go to the prison." Sir Jonah hastened to Newgate, but both the brothers had then been executed.

Turning from this sickening scene of political strife, we find enrolled in the Rolls office, under date of the 16th of May, 1798,

the patent appointing the Lord Chancellor to be "Lord High Steward for Ireland, for the trial of Robert Earl of Kingston, to perform, occupy, and exercise that office for this Term only, with all things belonging and appertaining to the said office in this behalf." The Court of the Lord High Steward is a Court, as our readers or many of them are aware, instituted for the trial of peers indicted for felony. In ancient times this office was hereditary, but for many centuries past it has been granted *pro hac vice* for "this case only." The trial, which was for wilful murder, took place on the 18th of May, 1798, when the Lords' chamber being too confined, the House of Commons was selected as the most fitting place for the court. The procession to the House was marshalled by Ulster King-of-Arms; the usual formalities were gone through; the noble prisoner was brought to the bar; and when, in accordance with ancient usage, he knelt before his Judges, he was at once directed by Lord Clare to rise. His lordship thus addressed the prisoner:—

"Robert, Earl of Kingston, you are brought here to answer one of the most serious charges that can be made against any man—the murder of a fellow-subject. The solemnity and awful appearance of this judicature must naturally discompose and embarrass your lordship. It may, therefore, not be improper for me to remind your lordship that you are to be tried by the laws of a free country, framed for the protection of innocence and the punishment of guilt alone; and it must be a great consolation to you to reflect that you are to receive a trial before the supreme judicature of the nation—that you are to be tried by your peers, upon whose unbiassed judgment and candour you can have the firmest reliance, more particularly as they are to pass judgment upon you under the solemn and inviolable obligation of their honours. It will also be a consolation to you to know, that the benignity of our law has distinguished the crime of homicide into different classes. If it arise from accident, from inevitable necessity, or without malice, it does not fall within the crime of murder; and if these distinctions be warranted by evidence, you will be at liberty to take advantage of them. Before I conclude, I am commanded by the House to inform your lordship, and all others who may have occasion to address the Court during the trial, that the address must be to the Lords in general, and not to any lord in particular."

Robert Earl of Kingston was born in 1754, and was married when Lord Kingsborough, at fifteen years of age, to Caroline, sole daughter and heiress of Richard Fitzgerald, of Mount Ophaly, in the county of Kildare. The lady was younger still, and was possessed of great mental and personal attractions. She had a brother, to whom she was greatly attached, who had died without any lawful issue, but who had left a natural son, Henry Gerald Fitzgerald. Pitying his forlorn condition, Lady

Kingsborough had him reared with as much care as if he had been her own son; she saw to his wants, which she invariably supplied, and did all in her power to make him forget the unhappy situation in which he was placed; in a word, she brought him up with her own children. She obtained a commission for him in the line, and he soon attained, by reason not alone of his great interest, but his great talents, the position of colonel of his regiment. Amongst the children of Lord and Lady Kingsborough, with whom he was unfortunately too intimate, was Mary, the third daughter, remarkable for her graceful figure, for the soft and pleasing expression of her countenance, and for the beauty of her hair, which grew in such luxuriance as to attract the notice of all who saw her.

Colonel Fitzgerald was a married man, and the marriage he had contracted was one of prudence rather than of love. His domestic life was unhappy, and the society of the Honourable Mary King had become more agreeable to him than the society of his wife. In 1797 the young lady suddenly disappeared from her father's house near London, and a note left on her dressing-table informed her family of her resolution to drown herself in the Thames. Her bonnet and cloak were found on the bank, and the river was dragged for miles on both sides of the spot which seemed thus to be indicated as the scene of her self-destruction. But the search was in vain. No adequate motive could be assigned by those who knew her best for such an act; and the absence of motive, coupled with a fruitless search, engendered the suspicion, that perhaps, after all, she had never done the act which she threatened to do. The suspicion was soon intensified by the statement of a post-boy, that about the time of her disappearance he was driving a gentleman, whom he had not previously known, on the road to London, not far from Lord Kingsborough's residence; that they met a lady who was walking alone, and whom the gentleman (directing the carriage to stop) invited to take a seat beside him; that she did so; that both appeared to act by a preconcerted arrangement; that her appearance corresponded to the description given of his lordship's daughter; and that he drove them to London, where they parted from him in each other's company; but whither they went he was entirely unable to say. This information led Lord Kingsborough to believe that his daughter had eloped with some one, but with whom he could form no idea. He therefore advertised in every newspaper, offering large rewards for any information that would lead to her discovery. She was faithfully described, particular attention being directed to the profusion of her long and flowing hair, for which she was remarkable. The friends of the family were assiduous in their attentions, and they failed not to state their convictions that the lady had eloped

with Colonel Fitzgerald. Indignant at the charge, the Colonel joined in the search, and when all proved fruitless, no one was louder in lamentations than he. "He could not rest," he said, "till she was found, for in no other way could his innocence of the deed be sufficiently established." The apparent sincerity of his protestations, his ceaseless endeavours to find her, his numerous calls at the house, his unwearied attentions, and agonised protestations, disarmed the most suspicious. He was admitted to the family councils, proposed plans, and acted the part of a loving and grateful relative so admirably, that none could for one instant suppose that the lady was at that very moment in his own safe keeping.

The hour of retribution, however, was at length come. A girl, who stated that she was a servant at a lodging-house in Clayton-street, Kensington, called to inform Lady Kingsborough that she had heard of the advertisements in the London papers, and that a young lady, in every way answering to that description, had the apartments in the house where she was servant, and was constantly visited by a gentleman of prepossessing appearance and of a military air. Some days since she—the servant—was astonished to see the lady cutting off her hair with a pair of scissors, her eyes at the time suffused with tears. The servant felt at once convinced that the stranger was no other than the lady of the advertisement. She was then proceeding to describe this appearance of the gentleman, when suddenly the door was opened, and Colonel Fitzgerald entered the room! "That is he!" exclaimed the girl. "That is the gentleman who visits the strange lady; he it is who brought her to our house." Astounded at the unexpected exclamation, Colonel Fitzgerald was so taken by surprise, that he dashed from the room without uttering a single word of contradiction or explanation: his whole demeanour confessed the truth. Lord Kingsborough's second son (Colonel King, afterwards Lord Lorton) demanded instant satisfaction, and Colonel Fitzgerald accepted the challenge, observing at the same time that his character was so blasted by the last affair, that he had no chance of getting a second, but that he was sure to be on the ground.

On the 1st of October, 1797, the duellists met. Colonel Fitzgerald was, as he stated, unable to find a second, and he fought without one. Four shots were exchanged, and then Fitzgerald made an effort to address Colonel King, who exclaimed, "You are a damned villain; I won't hear a word you have to offer." Colonel King's ammunition was by this time exhausted; but so deadly was the animosity on both sides, that they had arranged to meet again on the following morning: before, however, the appointed time, both parties were put under arrest by the police.

The young lady was now recovered by her father from her seducer, and was conveyed to Mitchelstown Castle, in the south of Ireland, far, as it was hoped, from the influence of Colonel Fitzgerald. But he bribed one of the maid-servants who had accompanied her to Ireland, and through her obtained information of the place of the lady's retreat. Disguising himself as best he could, he had the effrontery to set up at the inn at Mitchelstown, for the purpose of again carrying off his unhappy victim. The innkeeper, suspecting that all was not as it ought to be, lost no time in acquainting Lord Kingsborough of the stranger's presence, and of the danger his daughter was in. His lordship hastened to the hotel, and finding that on that morning the stranger had taken his departure for Kilworth, he followed him thither, accompanied by Colonel King. Learning on his arrival that a stranger had come there only a few hours before, he at once sent the waiter to his room, with a message that a gentleman wished to see him on urgent business. The door was locked, and the stranger roughly replied from within that he did not wish to be disturbed. What must have been the indignation of the father and brother on hearing the well-known voice of Colonel Fitzgerald himself? They never for one moment believed that he could have had the audacity himself to come to their own town at Mitchelstown, though they were inclined to believe that the stranger was some emissary connected with him. In a moment the door was smashed open. Colonel King rushed at him as he was seizing his pistols, and a violent struggle ensued. Lord Kingsborough, who saw his son's danger, raised his pistol and shot Fitzgerald dead on the spot. It was for this act that the Earl of Kingston (for such had Lord Kingsborough by the death of his father recently become) was now tried. He was acquitted, and the commission was dissolved.

This unhappy trial ended, Lord Clare again turned to political life. The rebellion had commenced; but it would be outside our province to write the history of that rising, which was partial, premature, and opposed to the teachings of the spiritual teachers of the people. It was indeed far from being supported by the Catholic clergy, though some few amongst them did join the movement. Of the one hundred and sixty-two leading members of the United Irishmen who planned the insurrection, 106 were Protestants and 56 Catholics. Perhaps it would be nearer the truth to say that this one hundred and sixty-two had no religion at all, imbued as they were with the atheistical doctrines of the French revolution. Against Dr. Troy, Catholic Archbishop of Dublin, a conspiracy was formed, because he had denounced the principles of that party.

In the province of Connaught, Dr. Dillon, Catholic Bishop

of Kilmaednuagh, thus wrote:—"The wrath of heaven could scarcely visit us with a more dreadful scourge than that of a French invasion—witness the atrocities that have marked their steps in every country into which they have intruded themselves—our churches pillaged, our holy religion proscribed, our holy father stripped of that property which enabled him to display a generosity and benevolence worthy of his high position, and to propagate the Gospel of Christ amongst the most distant nations of the globe: such are the blessings which, under the name of liberty, have been bestowed upon many neighbouring countries by the rulers of the French people."

This pastoral appeared in the month of May. A vacancy occurred in the See of Tuam in the autumn of the same year, and the priests of that archdiocese marked their approbation of Dr. Dillon's conduct by electing him to sit in the chair of St. Jarlath, an election that was approved of by the Pope. The 23rd of May, the day fixed for the revolt, at length arrived, and it was understood that the signal should be, the stoppage of the night mails going out of Dublin to the provinces. The northern mail was stopped at Santry by a line of cars drawn across the road, and the like event happened to the Athlone mail, between Lucan and Leixlip.

An attack was then hourly expected on the city of Dublin. Lord Clare appeared the most busy and active. But his activity was confined to the Council Chamber, and the upper court of the Castle. The yeomanry were massed in a compact but undisciplined body in Smithfield; so were the lawyers' corps, who showed great zeal on that occasion, and amongst whom was one destined to celebrity in after years—*Daniel O'Connell*. These were commanded by Saurin, and from their position were likely to sustain the first onset of the pikemen. They were, however, relieved on the morning of the 24th from all apprehensions, by the comforting intelligence that the Santry insurgents had been defeated during the night by Lord Roden's cavalry.

Immediately following the outbreak, the Catholic prelates and the principal members of the Catholic laity, opposed on principle to the teachings of the rebel leaders, and alive to the hopelessness of the struggle, and preferring perhaps to bear those ills they had borne under the crown of England, than fly to others that they knew not of, under another government, published a document which was circulated broadcast over the country. It was addressed:—"To such of the deluded people now in rebellion against His Majesty's government as profess the Roman Catholic religion. They apprehend, with horror and concern, that deluded men, in addition to the crime committed against the allegiance which they owe to His Majesty, have, in some instances, attempted to give their designs a colour of the religion

which they profess. The undersigned profess equally with them the Catholic religion; some of them are bishops of that persuasion, others are the heads of the leading families who profess that religion, and others are members of the same persuasion, who, by an honourable industry, have, under the constitution now sought to be subverted, raised themselves to a situation which affords them, in the most extensive sense, all the comforts of life." The address, which then proceeds to show the ruin that awaited them that take up arms against the government, suggests that the revolt would also "throw on the religion which they [the rebels] profess to advocate the most indelible stain." It submits for their consideration whether their bishops were not more likely to consider the true honour and interests of their religion than "a set of desperate and profligate men, who had availed themselves of the ignorance of the people to work their own bad ends."

This address was signed by thirty-two dignitaries, and by the Earl of Fingal, and many others of the Catholic aristocracy; but the peasantry in many parts of Ireland were unfortunately too much the dupes of the teachers of French ideas to lend an ear to the voice of wisdom, and they rushed to their own destruction. They fought gallantly, and achieved some brilliant though transient successes; but the end of such an attempt was never doubtful from the first; and at last, the gibbet, and tortures which it is horrible to contemplate, signalled the conclusion of the revolt. The infliction of these tortures, Lord Clare, who was the most powerful and active member of the government, attempted to justify! At the Privy Council he was a constant attendant; and his overbearing manner there, as in the House of Lords, carried everything before him.

Now, when his hands were free from the work of putting down the rebellion, he turned his attention to the abolition of the statutes enforcing celibacy on the Fellows of the University of Dublin. Many of those rev. celibates were privately married, but their wives invariably preserved their maiden names, in order to avoid the penalty incurred by married Fellows of losing their Fellowships. Thus an invitation would run, "The Reverend Dr. A—, Fellow of Trinity College, and Miss B—, request the pleasure of," &c.! The doubtful position in which a Fellow's wife was thus placed, and the dread of the stigma of illegitimacy attaching to his children, prevented many young men of talent from standing for Fellowships. This evil did not fail to attract the attention of Lord Clare, Vice-Chancellor of the University. He resolved to repeal the statute, but in this was violently opposed by the Secretary of State for the Home Department, the Duke of Portland, and was therefore unable to

effect the change. The law enforcing celibacy continued the law of the University until the reign of the present queen.

While Trinity College was the object of the Chancellor's peculiar veneration and esteem, the College of Maynooth was equally the object of his aversion; an aversion which seriously embarrassed the government by reason of his opposition, which threw out the Maynooth bill, of which Lord Cornwallis thus writes to the Duke of Portland:—

“DUBLIN CASTLE, *April 10th, 1799.*

“When the order of the day for going into committee on the bill for supporting the Roman Catholic seminary at Maynooth was read on Tuesday in the House of Lords, after Lord Farnham had made some objections to the particular items of their expenditure, the Chancellor rose, and entered at some length into a discussion of the propriety of continuing the Roman Catholic College of Maynooth on its present foundation and plan.

“His lordship stated that it appeared by the accounts of the trustees of that seminary, that it was their object to have at least 200 students educated for the priesthood, at the expense to the public of £25 a-year for each student. The principle of this plan was to make their whole education gratuitous, by which it would follow that the persons educated at Maynooth, not being obliged to advance anything for their education, would be chosen from the lowest classes of society, and the priesthood of Ireland would continue to be taken from the dregs of the people.¹ He was therefore against the principle of the institution in its present state.”

The last year of the last century was remarkable for being the last year of the Irish Parliament—a parliament composed of Lords and Commons so corrupt that its equal is not to be found in the annals of the world—a parliament whose memory has been held up to ridicule, hatred, and contempt, by every writer, friend or foe of this country, that has ever written. “The Irish Parliament,” writes Lord Macaulay, “was the most tyrannical and the most corrupt that had ever sat in Europe.” “I have seen the Irish Parliament,” says Theobald Wolfe Tone, “I have seen the Parliament of England, the Congress of the United States of America, the Corps Legislatif of France, and the Convention of Batavia; so that I have seen, in the way of deliberative bodies, as many, I believe, as most men; and of all those I have mentioned, beyond all comparison the most shamelessly profligate and abandoned by all sense of virtue, principle,

¹ *Cornwallis Correspondence*, by Ross, vol. iii., p. 90.

or even common decency, was the legislature of my own unfortunate country—the scoundrels!”

John Mitchell's opinions of the Irish Parliament are thus summed up:—“It must be confessed that the previous history of the Irish Parliament was not calculated to make the country expect any exhibition of stern patriotism.”

Sir Jonah Barrington says:—“The Irish Parliament was politically vicious and intolerably corrupt.”

Martin Haverty:—“The most nefarious corruption was openly practised—votes were publicly bought and sold.”

Robert Holmes, one of Ireland's best patriots, despised the Irish Parliament. “Give to Ireland,” he says, “her own parliament, not the parliament of '82; that was a meteor light which flashed across the welkin, the deceptive vapour vanished quickly.”

In the Irish House of Commons were many barristers; and in the general corruption that prevailed, the bar was not incorruptible. Lord Clare doubled the number of Bankrupt Commissioners; revived some offices and created others; and, under pretence of furnishing each county with a local judge, in two months established thirty-two new offices, each producing six or seven hundred pounds a-year. Bribery, open and undisguised, prevailed in both Houses. Never in the history of any country was there recorded anything like to, or at all approaching, the corruption that prevailed in that most corrupt of all corrupt assemblies; of which Lord Cornwallis thus writes to his friend, General Ross:—

“8th June, 1799.

“I trust I shall live to get out of this most cursed of all situations. How I long to kick those whom my public duty obliges me to court. My occupation is now of the most unpleasant nature—negociating and jobbing with the most corrupt people under heaven. I despise and hate myself every hour for engaging in such dirty work, and am supported only by the reflection that without a Union the British empire must be dissolved.”

But the end was now at hand, and on the 29th of July, 1800, the corrupt Irish Parliament ceased to encumber the soil. Had that parliament been the elected of a free people; had Catholic emancipation, which Lord Clare had struggled against, been passed; had the policy of Henry Grattan and of Lord Fitzwilliam been followed; had public opinion a proper influence on elections; or even, without vote by ballot, had the relations of electors and elected been similar to what existed in England; had an appeal been made to the country, as according to the constitution ought to have been done on so important a question—

had all those things been so, no earthly power could have eradicated the Irish legislature from the Irish soil. The Irish Parliament would be then likened unto the house which the wise man had built upon a rock; and when "the rains fell and the floods came and the winds blew, it fell not, for it was founded upon a rock." But it was likened rather unto the "house that the foolish man had built upon the sands, and when the rains fell and the floods came and the winds blew, and they beat upon that house, it fell, and great was the fall thereof."

The Union was now an accomplished fact, and on the 2nd of February, 1801, Lord Clare took his seat in the United Parliament. In the Irish House he had been omnipotent. In the English House he was nothing. His very first speech met with interruption and rebuffs. He abused the Catholics, and put himself at the head of the opponents of their claims. He ridiculed his country, was called to order by Lord Suffolk, was rebuked by the Lord Chancellor of Great Britain; resumed, was again called to order, lost his temper, and stigmatised the opposition as "Jacobins and levellers." "What!" exclaimed the Duke of Bedford; "we would not bear this insult from an equal! Shall we endure it at the hands of this mushroom nobility?" That rebuke Lord Clare never recovered. Over and over again he was reminded that he was not now predominating over an assembly of Irish peers. He was not even consulted in the arrangement for the no-popery administration of Mr. Addington in 1802, though he remained in London in order to negotiate for some more efficient influence in the British cabinet than the Great Seal of Ireland was ever likely to give him. But Mr. Pitt, who well knew his insatiable ambition, cautioned Mr. Addington against admitting him to a situation in the ministry.

Lord Clare returned to Ireland, where he found a number of hungry place-hunters awaiting his arrival. But his influence was gone.

"Ah!" said he, "I, who had once had all Ireland at my disposal, cannot now give away the appointment of a gauger."

In Grattan's memoirs it is stated, on the authority of Lord Clare's nephew, that Lord Clare bitterly deplored having taken any part in effecting the Union.

He presided in his Court during the Michaelmas Term of 1801. It was his custom after Court hours every day to take a ride in the Phoenix Park; and on an afternoon, immediately before the Christmas holidays, his horse started, when opposite the Viceregal Lodge, and threw his rider. From the effects of that fall he never recovered. Lingered on, he had ample time to recapitulate the acts he had done; and, unmourned, he expired at his house, No. 10, Ely-place, in the city of Dublin, in the latter end of the month of January, 1802. On the morning of the

funeral an infuriated mob assembled around his house, and their unseemly conduct was with difficulty restrained by Lord Cloncurry, who was obliged to address them from one of the balconies of the deceased nobleman's residence. The remains were removed at length to the hearse, which was pelted, as it passed through the streets, with dead cats, in allusion perhaps to a speech delivered by him, "that he would make the Catholics as tame as cats."

His funeral is thus noticed in Walker's *Hibernian Magazine*:—"Sunday morning, the 28th of January, the remains of the Lord Chancellor were interred in St. Peter's churchyard. The gentlemen of the law, to the number of at least 600, attended the funeral; twenty-four servants with scarfs, and twelve mourners, the Lords Ely, Shannon, Kilwarden, and Tyrawley, bearing the pall. His lordship's family coach was followed by seventy-four of the nobility and gentry. The procession went through Hume-street, Stephen's-green, and York-street.

"The late earl has bequeathed his wife £1200 a-year, and his estate at Mount Shannon during the minority of his eldest son; to her also he has confided the education of his children, with an allowance of £1600 a-year for that purpose.

"To his eldest son his paternal and acquired property, about £7000 a-year; to his second son, and to his only daughter, a moiety each of £40,000, and in case of failure of his own issue, he devised his property to his nephews, the sons of Archbishop Beresford (of Tuam)."

Close to the north transept of St. Peter's church is a grave-stone of mean appearance, more fitted to point to the resting-place of a felon than to that of a peer. Upon it is inscribed this inscription—"Here lieth the body of the Right Honourable John Fitzgibbon, Earl of Clare, Lord High Chancellor of Ireland, who departed this life on the 28th of January, 1802, aged 54 years."

107. A. D. 1802.—LORD REDESDALE. Amongst the few families of the north of England who trace their remote origin to times long before the Conquest are the Mitfords of Mitford Castle, in the county of Northumberland. Descended from a junior branch of this ancient race was John Mitford, barrister-at-law, who lived at Gilbury House, in the county of Hants. He had two sons, of whom the elder, William, was born on the 10th of February, 1744, and he having in due time become a student of Queen's College, Oxford, was called to the bar. On the death of his father, in 1761, he succeeded to his paternal estates, retired from the profession, and joined the militia of his native county, of which Edward Gibbon, the author of the *Decline and Fall of the Roman Empire*, was then a major. The conversation, perhaps the advice, of Gibbon confirmed, if they did not prompt,

his resolution to undertake a history of Greece from the earliest times to the time of Alexander. His younger brother, John, was born in 1748, the year of the birth of the Earl of Clare. He became a student of the Middle Temple, where he acquired an early reputation. His practice at the bar was almost exclusively confined to Courts of Equity, of which he soon became a leader, and the influence of his friend Sir John Scott, afterwards Lord Eldon, procured for him in due time a silk gown and a Welsh Judgeship. In 1788 he entered the English House of Commons as member for Beeralston, in the county Devon. Immediately on his entrance into parliament, he turned his attention to one great object, the repeal of those laws which the spirit of former times caused to be enacted against those "who had formed," as Sir William Blackstone saith, "an unhappy attachment to the Roman church." He and the party with whom he laboured had the gratification, in 1791, of seeing the penal code so far relaxed that no member of the Catholic communion who had taken certain oaths prescribed by the statute of that year should thenceforth be liable to prosecution for being papists.

His character as a lawyer was now high, and a work that he had then lately written on *Pleading in Equity Causes* brought him to the foremost rank of the equity bar. In the last-named year he received the honour of knighthood, and was appointed Solicitor-General for England, an office which, owing to the longevity of the bench, he filled for the eight ensuing years. In 1799 he became Attorney-General, and so continued until the resignation of Mr. Pitt in 1801, when he was elected Speaker of the House of Commons. This election greatly pleased the king, who thus wrote:—"There could not be a stronger proof of our joint endeavours to save this dear country than the choice of Sir John Mitford as Speaker of the House of Commons, just notified to me by Mr. Addington. I desire the commission may be instantly prepared for approving the choice the House of Commons has made, and that the Chancellor (Lord Eldon) will have it sent as soon as ready for my signature.—GEORGE R."

After Sir John Mitford had held this great office almost a year, he resigned it in the February of 1802, on his appointment to the high post of Lord Chancellor of Ireland, a post which he acquired through the influence of Mr. Abbott, Chief Secretary for Ireland, who in his turn succeeded him in the Speakership of the House. The new Chancellor was at the same time raised to the peerage with the title of Baron Redesdale, of Redesdale, in the county of Northumberland.

Sir William Grant, Master of the Rolls, when proposing Mr. Abbott for the Speakership, took occasion thus to notice the abilities and learning of Sir John:—"Before he would proceed

to enumerate the talents and the qualities which characterised Mr. Abbott, whom he intended to propose for the office of Speaker, he could not pass over in silence those supereminent endowments which so peculiarly distinguished the learned gentleman, Sir John Mitford, who was now retiring from this high station. To give adequate praise to such endowments was no light attempt, for during the short period during which his learned friend had filled the chair, was it possible to have evinced a knowledge more varied, and at the same time so profound; an information more extensive, and at the same time more accurate; a more ardent and enlightened love of the constitution, and at the same time so punctilious a regard to all the forms of the House, and all the rules of its proceedings? And if now the House was to experience the loss of the services of these great and manifold talents, the pain caused by that loss would be somewhat alleviated by the reflection that another portion of the empire was to enjoy the benefit of them—and that in a sphere in which he might expand the whole compass of his capacious mind—a mind that equally embraced the minutest rules of forensic practice, and the most large and liberal principles of general jurisprudence.”

Sir John Mitford's patent of appointment as Chancellor bears date the 16th of March, 1802. He proceeded with all convenient speed to Dublin, and on his arrival at his house in Ely-place was immediately waited on by all the Judges and the bar. Amongst the members of the latter who were brought under his notice was Mr. Lefroy, a young man of great abilities, who fifty years later became Chief Justice of the King's Bench. Mr. Lefroy, in conjunction with Mr. Schoales, undertook the reporting of cases decided by his lordship. To speak in praise of those reports, known to the bar as “Schoales and Lefroy,” would be superfluous, for their fame is coextensive with the English law.

Shortly after his arrival in Ireland, the new Chancellor went to reside near Stillorgan: a letter which he wrote about this time to Judge Burton, informing him that he had taken a farm of sixty acres within four miles of the city—out of its smoke and its stew, is not without interest, descriptive as it is of the relative scales of comfort and expense of living in London and in Dublin respectively, seventy-six years ago:—

“Expenses here are very great, especially to a stranger. A few articles are cheaper than in England, but an Englishman cannot live like an Englishman at nearly so cheap a rate in Dublin as in London. If he can adopt the habits of the country, and be content without a thousand comforts which he has been used to in England, and live in the true Irish style, he may perhaps make something of external show rather cheaper than

he would do in London ; but every real luxury and almost every convenience is cheaper in London, and everything is infinitely better. The paper I write on, and the pen I write with, remind me how execrably bad almost every article of manufacture is, and how abominably dear it is at the same time.

“ I must endeavour to make my farm a comfortable residence, for I cannot submit to live all the year in the stew and dust of Dublin.”

He then laments that the people in England are for the most part ignorant of Ireland and its inhabitants, and concludes by saying, that “purity of government is the great thing to be looked to.” The antecedents of the Chancellor, and his long exertions for removal of the penal laws, were remembered with gratitude by the Catholics of this country. The new Lord Lieutenant, Lord Hardwicke, was also extremely popular, and all the newspapers of the kingdom were loud in praises of both. Nevertheless, both were members of the Addington administration, which denied all hope of Catholic emancipation !

It was in the following year that Robert Emmet and a number of political enthusiasts, of whom he was the prime mover, entered on the mad attempt to shake off, without any adequate means, the power of England. Emmet was young, of promising abilities and brilliant imagination, but he wanted those qualities with which the future leader of the people, Mr. O’Connell, was so amply endowed. He and his partisans had formed the design of establishing an independent Irish republic, and hoped to accomplish it by striking a decisive blow in the capital. An armed mob collected for this purpose on the evening of the 23rd of July, 1803, marching through the principal streets of Dublin, on their way to the castle ; but they soon lost all respect for their leaders, murdered the amiable and learned Lord Kilwarden, Chief Justice of the King’s Bench, and after the space of an hour or two were dispersed by a column of soldiers numbering one hundred and twenty, and the insurrection which had commenced at sunset was extinguished at midnight ! So unexpected was the insurrection, that the Lord Lieutenant was actually entertaining on that evening the Lord Chancellor and several others at the Viceregal Lodge, a place entirely without protection. Speaking of that unplanned rebellion, Mr. O’Connell says :—“ I ask you whether a madder scheme was ever devised by a bedlamite ? Here was Robert Emmet, having got together about £1200 and seventy-four men, makes war upon George III. with 150,000 of the best troops in Europe, and the wealth of three kingdoms at his command. Why, poor Emmet’s scheme was as wild as anything in romance.”¹

¹ O’Flanagan’s *Life of O’Connell*, vol. i., p. 83.

The rebellion having been suppressed, the leading Catholics in Dublin and the neighbourhood immediately came forward with professions of loyalty, and of abhorrence at the late attempt. A measure was next introduced for the suspension of the *Habeas Corpus* Act. During the debate the Irish government was eulogised by the Chancellor of the Exchequer, who added :—“Of Lord Redesdale he would say nothing, as there could be but one opinion as to his merit; he would only observe that Lord Hardwicke having the advice of that distinguished lawyer afforded an additional pledge that in such hands the great powers he proposed to give must be safe.” But the panegyric came too soon—Lord Redesdale’s entire nature was now changed. It may be that he thought, and thought rightly, that the capture of the chiefs of the government on that fatal night could have been accomplished with ease. It may be that he looked back with the horror of one who has escaped from a conflagration, on his escape from the Viceregal Lodge on that memorable night. However that may be, certain it is that Lord Redesdale no longer raised his voice on behalf of the oppressed people, but, on the contrary, insulted the Catholic body, clergy and laity alike, and lent his bewildered mind to the tales of the most insignificant babbler. A young man named Holton intimated that he had some information to give, and was at once admitted to the Privy Council, who were then sitting at the Castle under the presidency of Lord Redesdale. This young spy had the assurance to inform the Council that there was a fleet of smugglers and rebels hovering about Belfast, and that their intention was to come down from the North, surprise the Pigeon House, and thence proceed to the Castle. He gained further credence by his statement of what he himself could achieve. The result was, that they agreed to equip him instantly with a cocked hat and feathers, and sent him down to Belfast, to tempt, to deceive, and to betray. Holton affected great modesty and moderation before the Council, and stated that one hundred guineas would answer his first and immediate object. Lord Redesdale sympathised with the zeal of this spy, and pressed five hundred guineas upon him in the first instance, observing that he could do nothing with a hundred, and gave him an assurance that thousands would not be wanting if he found occasion for them. At the same time instructions were to be sent to Sir Charles Ross, who then commanded at Belfast, to apprise him that the rebel general was a confidential servant of the Castle, and was not to be interrupted in his progress of temptation and seduction, but was rather to be aided and assisted, as he should desire and suggest. The express was forwarded by an ordinary dragoon, but Holton, conceiving that he could not

travel too fast, hired a coach and four, and arrived in Belfast a considerable time before the dragoon with the advice of his advent. The miscreant was therefore, when in the act of spouting treason, and endeavouring to entrap the unwary multitude, arrested and sent back under a strong guard to Dublin. The matter soon came to light, and much damage was done to the government by the discovery.

A motion in the House of Commons for an inquiry into the conduct of His Majesty's government in Ireland was brought on by Sir John Wrottesley, in relation to the insurrection of the 23rd of July. This motion was for the purpose of preparing the way to bring back Mr. Pitt to office, by exposing the imbecility and remissness of the administration of Mr. Addington. It was on that occasion that Mr. Canning introduced to the consideration of the House the weak and inflammatory letters of Lord Redesdale to the Earl of Fingal. He observed that "Lord Redesdale, after the contemptible number and means of the late insurrection had been fully disclosed to the Irish government, had most unwarrantably asserted that it was an insurrection of whole classes of Catholics, thereby making an imputation against three-fourths of the people of Ireland, who had furnished from the whole country but eighty rebels, of which number, according to the ministerial statement, it consisted." He then read, with shame and indignation, the correspondence between the Chancellor and the noble earl.

The letters which caused so much excitement were four in number. It appeared that after the insurrection had been suppressed, Lord Fingal had solicited the commission of the peace for the county of Meath; the Chancellor sent him the warrant for his appointment, and accompanied it with a letter, the first part of which was an instruction upon the duties of active loyalty; while in the second part he stated, that so long as the Catholic clergy taught their flocks that unity was an essential requisite in the Church of Christ, so long would they inculcate hatred and treason to their legitimate sovereign, should he not submit to the Church of Rome.

In his second letter, the Chancellor attributed the late insurrection "to the difference in religious opinions of the bulk of the people, who, heedless themselves about their constitutional rights, were taught and encouraged by their clergy to demand an equal participation of them with Protestants, whom they refused to consider brethren in Christ." The Chancellor then went on to arraign a pastoral of Dr. Troy, published in the year 1793, *On the Duties of a Christian Citizen*, a work which, it was said, savoured strongly of republicanism, but which was written to prove that the Church of Rome had not in times past been in-

variably in favour of arbitrary governments. The Chancellor then concluded by asserting that loyalty could not prevail in the Catholic body until their clergy should cease to preach the doctrine of exclusive salvation.

In his third letter, Lord Redesdale urged the temporal degradation of the Bishop of Rome by the French tyrant as a reason for the Irish clergy's disclaiming the doctrine of exclusive salvation, so destructive of the repose of mankind. That it was mockery and folly for priests to pretend to exhort their flocks to loyalty whilst they tell them that all who refuse to obey the Church are rebels to God. He then charged, that Catholics who were under the instruction of their priests came from all parts of Ireland to effect the horrid purposes manifested on the 23rd of July.

In the fourth and last letter, he insisted, "that the whole tenor of the conduct of the lower orders of Catholics showed that the duties of loyalty were not effectually taught to them, and that many of the higher orders, both clergy and laity, are not impressed with them." He concluded by stating that "the priests of the Romish persuasion had never taken, and never would take, honest and constitutional means to make their congregations loyal subjects of the Protestant government of this country."

To those insulting communications Lord Fingal replied with dignified forbearance. He disclaimed controversy, and vindicated his own loyalty and the loyalty of his brethren in the faith.

Mr. Canning, having concluded reading the correspondence for the House, denounced the Chancellor, and added, "that where such a spirit ruled, and where such opinions were cherished, the government influenced by them could not be a conciliatory one. It was an imprudent government, and very ill adapted for the safety of the public."

Mr. Fox spoke of Lord Redesdale's "ill-timed letters" with indignation.

Lord Redesdale's conduct, in connexion with the government of Ireland, was again made the subject of comment in the debate in parliament on the Irish Militia bills, in 1803, which were brought in for the purpose of empowering His Majesty to accept of the offers of such of the militia corps in Ireland as had volunteered to extend their services to Great Britain. Mr. Hutchinson approved of the bill, notwithstanding every effort made by His Majesty's ministers to repress it. "It evinced," he said, "their loyalty to the king, reeking as they were with blood, covered with abuse, and degraded by the vilest insults that could possibly be offered. He supported the measure because it was a parliamentary refutation of the production of the

Lord Chancellor of Ireland, who arrogated to himself the privilege of harrowing up the feelings of millions of his fellow-subjects, by imputing to them principles which they abhorred, and motives by which they were not actuated." Other speakers followed, many of whom insisted that it was impossible to expect any improvement whilst the present Lord Chancellor inspired the government of the country.

In Lord Redesdale's opinion, the disappointed Catholics were gravitating towards France in the war that was then commencing, and he maintained that there ought to be kept up in Ireland a standing army of 20,000 men, every man of whom should be a Protestant. That the Catholics had been cajoled into a support of the Union by Mr. Pitt on the promise of Catholic emancipation was too true; but that the priests would beckon to the government of France, yet reeking with the blood of the Catholic clergy, to lend them their infidel support, appears to have been an incredible proposition. It is indeed a matter of history that an Irish legion was formed in France, ready, at the command of the First Consul, to cross over the seas into the Irish ports; but it is equally a matter of history that the leaders of that legion were for the most part Protestants and Presbyterians, and that their banners were unblest by the Catholic Church. On the 14th of May, 1804, Mr. Addington ceased to be Prime Minister, and Mr. Pitt returned to guide the destinies of the nation. Lord Hardwicke, however, remained at his post as Lord Lieutenant, with Lord Redesdale as Chancellor of Ireland. The Catholics, on the return of Mr. Pitt to power, believed that their day of emancipation was come; but it was still distant; and Mr. O'Connell, who was carrying his bag in the hall of the Four Courts, had not yet received his brief to plead the cause of six millions of his countrymen. He was not yet a leader amongst the Catholics, though he was fast rising at his profession. A petition was presented in 1804 to both houses of parliament by those favourable to emancipation; but Lord Eldon objected even to the formal motion that the petition should be printed, and Lord Redesdale made a very violent speech against it, saying, "that to pass such a measure would be to take the titles and lands from the Protestant hierarchy, and give them to the Catholic bishops!" and added, that "if the Catholic hierarchy were abolished, something might be done to conciliate the Catholic body; and to the generality of that body he was confident the abolition of the hierarchy would be extremely grateful." The motion was negatived in the Upper House, and in the House of Commons it was lost by the overwhelming majority of 212.

Quickly following the abandonment of the Catholic measure came the case of Mr. William Cobbett. An anonymous writer

had, at the close of 1803, published a number of letters in *Cobbett's Political Register*, commenting with severity on the government of Lord Hardwicke, and of the Chancellor, Lord Redesdale. The most stinging of those letters, which it was insisted were libels, was one commencing with *Equo ne credite Teuceri*. The writer, having taken this classical quotation as his text, thus proceeds:—"This was the advice in a dangerous moment given by Laocoon to the Trojans. It will be remembered that the *equus* which this sagacious adviser cautioned his countrymen against was a wooden one. His countrymen did not regard Laocoon; but they received the wooden representative of wisdom. They approached it as if it possessed authority and power. Its wooden head towered above their houses, but the machine itself was of harmless wood. The credulous Trojans found that its hollow head and sides were nothing less than receptacles for greedy speculators and bloodthirsty assassins. The ingenious author of the story did not mean to confine the lessons it indicates to the taking of Troy alone. He meant to take advantage of that easy metaphorical expression which, by common assent of mankind, has moulded itself into many languages, and by which a certain species of head, which the moderns, by various moral experiments, have explained to be a non-conductor of ideas, has been denominated a wooden head. He meant to caution future nations not to put their trust in any such wooden instrument, and not to suffer themselves to exalt it into consequence, or to pay it any respect. He meant to tell them that any people who submitted to be governed by a wooden head would not find their security in its supposed innoxiousness, as its hollowness would soon be occupied with instruments of mischief. Let me not be understood to say literally that the head of my Lord Hardwicke was absolutely made of timber. My application, like that of the original author, is only metaphorical, yet it cannot be doubted that if the head of his excellency were submitted to the analysis of any such investigator as Lavoisier, it would be found to contain a superabundant portion of particles of a very ligneous tendency. Lord Hardwicke is celebrated as being one of the most successful sheep-fatteners in Cambridge-shire. Mr. Addington has, however, taken care that this eminent sheep-feeder shall be assisted in his counsels by a very strong Chancery pleader from Lincoln's Inn."

Mr. Cobbett, the offence having occurred in London, was indicted at the Old Bailey, for "wickedly, seditiously, and maliciously writing and publishing, and causing and procuring to be written and published," these "false, wicked, malicious, scandalous, and seditious libels, of and concerning His Majesty's government." The grand jury having found true bills, he was put on his trial on the 24th of May, 1804. For the defendant

it was urged—1st, that he did not write the alleged libel; 2ndly, that the publication of it was not libellous; and 3rdly, that he was justified in publishing it. Lord Ellenborough, the Chief Justice, who tried the case, in his address to the jury observed, “that the traverser was charged with publishing a libel upon the administration of the Irish government, and upon the public conduct and character of the Lord Lieutenant and Lord Chancellor of Ireland. It is no new doctrine,” he said, “that if a publication be calculated to alienate the affections of the people by bringing the government into disesteem, whether the expedient be by ridicule or obloquy, the person so conducting himself is exposed to the inflictions of the law.” The jury convicted the traverser, who was sentenced to be imprisoned and to pay a fine of £500.

The intimate relations between the Lord Lieutenant and the Chancellor appear to have been rudely shocked by a correspondence that took place in the year 1805 in relation to the admission of Lord Cloncurry to the commission of the peace. His lordship had been arrested under the *Habeas Corpus* Suspension Act, and committed to prison on the 8th of May, 1799, and was not discharged until March, 1801. Four years later he applied to be admitted to the commission of the peace. But the Chancellor declined, and the matter coming before Lord Hardwicke, he ordered, in unmistakeable language, that his lordship’s name should be forthwith placed on the roll of the magistrates for the counties of Meath and Kildare.² Lord Redesdale was thus constrained to obey, and had to undergo the humiliation of writing to Lord Cloncurry to inform him that the commission of the peace would immediately be made out for him. Lord Cloncurry, however, replied that he would receive no favour at the hands of Lord Redesdale, and so the matter dropped. This was nearly the last official act of the Chancellor.

With the accession of Mr. Fox to the coalition ministry in 1806 terminated the viceroyalty of Lord Hardwicke. He was succeeded by the Duke of Bedford, whose very first act was the removal of Lord Redesdale from his situation, even before his successor had arrived in Ireland.³

On the 4th of March the Chancellor sat for the last time in Court. When the business of the day was over, he addressed the bar. He told them that “when he came over to Ireland, he thought he should probably spend the remainder of his life there. He proudly hoped to have lived and died amongst them, but that had not been permitted.”

Here his lordship (writes Plowden) was much agitated, and

¹ Russel *On Crimes*, vol. i., p. 325.

² *Personal Recollections of Lord Cloncurry*.

³ Plowden’s *History of Ireland*, vol. ii., p. 280.

shed tears profusely ; after a pause, he continued : “ It would have been my wish to have continued to sit until the gentleman who has been named to succeed me should have arrived. I believe it was his wish also. I have every reason to think so, and from him I have received every degree of politeness and attention. I am sorry that other persons have thought me unworthy to be trusted with the Seal during that interval. What can occasion this (which I cannot but consider as a personal insult) I am unable to guess. But I have been informed that a peremptory order has come to the Lord Lieutenant not to suffer the Great Seal to remain a moment longer in my hands. I know not whence this jealousy of me has arisen, or how my continuing to sit in the Court of Chancery (for I could make no other use of the Great Seal but under the warrant of his Excellency) could interfere with any views of His Majesty’s ministers. I am proudly conscious of having discharged the duties of my station with honesty and integrity to the utmost of my abilities.

“ For the office I care not, except so far as it afforded me the opportunity of discharging conscientiously an important public duty. It was unsought for by me. I came here much against my will. I came from a high situation in England, where I was living amongst old friends and in the midst of my family. But I was told I owed it to public duty and to private friendship to accept the offer, so I yielded. I yielded to the solicitations of some of those who have concurred in my removal. This, I own, I did not expect, and this I was not prepared to bear.”

After his lordship had concluded, the Attorney-General (Standish O’Grady), on the part of the bar, rose and addressed the retiring Chancellor, without making any allusion to the above scene :—

“ MY LORD,—Having an opportunity of conferring with a great majority of the gentlemen of the bar who have practised in the Court of Chancery during the time that your lordship has presided, I feel myself authorised to express their sentiments on this occasion. We have a great sense, my lord, of those endowments which have so eminently qualified you to preside in a Court of Equity. Whilst your impartial attention has secured to the honest suitor the full investigation of his claims, your sagacity and patience have taken away from fraud all hope of impunity and all pretext for complaint. We return your lordship thanks for the instruction we have received in attending to the series of decisions by which, during a period of four years, you have advanced the science which we profess. But most peculiarly, and from our hearts, we beg leave to make our grateful acknowledgments for the uniform courtesy and kindness which we have experienced from you in the discharge of our duty at your lordship’s

bar. Under these circumstances we take our leave of your lordship; the consciousness of having thus well discharged the duties of an elevated and important situation must render you independent of our praise. We trust, however, that this sincere tribute of esteem and gratitude which is now offered to your lordship will not be deemed unacceptable."

Lord Redesdale then descended from the bench, to which he was never restored. Many years after he had left Ireland, the question was mooted as to the expediency of withdrawing the viceroy from this country. In his letter to Lord Eldon on the subject he thus expresses himself:—

"BATSFORD, 13th April, 1821.

"MY LORD,—It is rumoured that Lord Talbot is to be the last Lord Lieutenant of Ireland. I do not think that Ireland is ripe for such a change. If the court of the Lord Lieutenant were removed, few of the Irish gentlemen who remain in Ireland would continue there. The court in Dublin also contributes to the civilization of Ireland by introducing good manners amongst them that frequent it."

Lord Redesdale rendered important services to his country by his unwearied attention to cases of appeal, and in the committees of the House of Lords. His exertions in carrying a bill for the relief of insolvent debtors through parliament are a lasting monument of his philanthropy. His lordship was married on the 6th of June, 1803, to Lady Frances Perceval, daughter of John, second Earl of Egmont, by whom he had issue John Thomas, his successor, and one daughter, Frances Elizabeth. Lord Redesdale assumed, by royal permission, in 1809, the surname and arms of Freeman, in addition to those of his paternal family. He died on the 16th of January, 1830, being then in his 82nd year.

Few of the Chancellors (Lord Jocelyn excepted) have taken a deeper interest than Lord Redesdale did in endeavouring to rescue the records of this country from destruction. Those valuable documents, which were then in a state of confusion—almost inextricable confusion—lay buried in sepulchral vaults and chambers in the Law Courts, the Custom-house, the Tower, and Castle. The mouldering obscurity in which the most precious archives of the kingdom had so long reposed was unfavourable to their preservation; many of those documents decayed and perished in the catacombs in which they were entombed. This melancholy state of disorder and confusion is fully detailed in Lord Redesdale's report upon the subject to the Earl of Hardwicke, and since his time in the reports of the English sub-commissioners who visited Ireland in 1808 and 1812.

108. A. D. 1806.—GEORGE PONSONBY. The ancestors of the Ponsonbys, Earls of Bessborough, came to England from Normandy with William the Conqueror, at a time when the proudest nobles were ready to accept offices which would now be considered menial, about the royal person. They are said to have been appointed barbers to the king, to which their coat-of-arms, a chevron between three combs, is supposed to bear allusion. They were settled for many centuries at the manorial castle of Ponsonby, in the county of Cumberland, whence they take their name, and accompanying Cromwell to Ireland they soon acquired power in the new country, and enhanced with a peerage the ancient nobility of their race. The title of the Earl of Bessborough is borne by the representative of the eldest branch of the house, some of the cadets of which have added to its dignity by peerages of subsequent creation. In the last century, John, younger brother of the Earl of Bessborough, was Speaker of the House of Commons, and was six times one of the Lords Justices of Ireland. He and his brother the earl were married to two sisters, the daughters of the Duke of Devonshire, Lord Lieutenant of Ireland. The Speaker had two sons, William, Postmaster-General, who was elevated to the peerage by the title of Baron Ponsonby of Lowkelly, and George, of whom we write. The latter was born on the 5th of March, 1755. Having graduated with much distinction in the University of Cambridge, he was called to the Irish bar in 1780, but felt at first much repugnance to the dry study of the law. Such, however, was his influential position, that he was appointed by the Chancellor of that day, Lord Lifford, one of His Majesty's counsel, before he had yet completed his second year's standing at the bar. He was in the same year returned to parliament as member for the borough of Innistogue, in the county of Kilkenny. From his first entrance into the House of Commons he belonged, as did his brother William, to the patriotic party. Both were in parliament, and both were active in offering the regency to the Prince of Wales, William, indeed, having actually been one of the deputation on that occasion to his Royal Highness. In parliament George Ponsonby spoke and voted in favour of Catholic emancipation, and of the extension of the franchise. He was not offered place until 1795, in which year Lord Fitzwilliam, recognising a compact that had been made between Ponsonby and Curran, offered to the former the Attorney-Generalship, and to the latter the Solicitor-Generalship for Ireland. The sudden recall of Lord Fitzwilliam, however, left in their places those who had long been in enjoyment of them. Against the proposed Union with Great Britain George Ponsonby spoke vehemently, and derided as visionary its proffered advantages.

On the accession of the whig ministry in 1806, Ponsonby

was created Lord Chancellor of Ireland, and was immediately presented with an address by the Munster circuit, of which he had been a member. Nearly the entire patronage of the government was then in his hands, and yet Mr. Curran was not appointed Attorney-General, pursuant to the compact of which we have spoken. That office indeed was then, and had been since the accession of Mr. Pitt in 1804, filled by another orator and patriot, William Conyngham Plunket, to remove whom would have caused an outcry, and consequently Mr. Curran was left five months unprovided for. Sir Michael Smith was then Master of the Rolls, and overtures were made to him on the part of the government to resign, on the express terms of being secured pensions for himself and for four of the officers of his Court. Those terms having been acceded to, Sir Michael Smith retired, and Mr. Curran became Master of the Rolls. No other place indeed was vacant at the time; but it was one unsuited to the tastes and to the professional knowledge of Mr. Curran, whose life had been spent in the practice of the common law, and who felt deeply aggrieved that he had not been given the Attorney-Generalship, as had been arranged long previously. Nevertheless, had he been appointed Attorney-General, he would have been out of office on the breaking up of the ministry in 1807, while by the arrangement with Sir Michael Smith he became Master of the Rolls, a place which he held until he chose to retire in 1814, with a pension of £2700 a-year.

The coalition ministry, having lasted but ten months, gave place to a "no-papery" administration, with the Duke of Richmond at the head of the Irish government and Lord Manners Lord Chancellor.

On the 28th of April, 1807, Mr. Ponsonby gave judgment in a case in his Court of much importance. After he had concluded, the Attorney-General (Plunket) rose, and asked his lordship whether he meant to sit on the following day; the Chancellor replied in the negative. The Attorney-General then addressed him as follows:—"My lord, having by the desire of the bar had the honour to present you with their unanimous congratulations on your appointment to the Seals, they cannot be silent on the present occasion, and through me are anxious to repeat to you the sentiments which they then expressed. It must, my lord, be permitted me to convey to you the high sense which is entertained by the bar of the diligence, the zeal, the talents, and integrity with which you have discharged the duties of your office, and the deep regret they at this moment feel at your separation from them. I must also be allowed to express their grateful acknowledgments of the uniform courtesy and impartial attention which you always manifested towards every member of the profession."

The Chancellor replied nearly in the following words :—" I feel most sensibly this approbation of the bar, which you have so kindly communicated ; at the same time I must be permitted to ascribe it as much to their partiality as any merit of mine. When the king was pleased to appoint me to the high office which I had the honour to hold, it was my firm intention conscientiously to discharge the duties which belong to it to the utmost of my ability ; I am inclined to think I have not been unsuccessful, having obtained the commendation of a body so capable of forming a correct judgment as the Irish bar. I feel great satisfaction, from the character of the nobleman who has been appointed my successor, that the duties of the situation will be discharged by him in a manner far beyond that to which my humble talents could pretend."

On the next day Lord Manners arrived in Dublin, and the Great Seal was put into his hands. Mr. Ponsonby, having ceased to be Chancellor, once more resumed his place and duties in the House of Commons.

The accession of the no-pope^y administration to power in 1807 strengthened rather than diminished the exertions of the Irish Catholics in the cause of emancipation. Lord Fingal, acting on the advice of Dr. Milner, an English apostolic vicar, and author of a learned work on controversy, laboured without intermission in the Catholic cause ; and as Dr. Milner was a kind of agent in England for the Irish bishops, both those lords, spiritual and temporal, took it upon themselves to authorise Mr. Ponsonby and Mr. Grattan to reinforce the prayer of the Catholic petition, by offering to the Crown in return the mischievous power of objecting to the appointment of bishops and priests obnoxious to the government. This power was known as the veto. It was supported by Mr. Grattan, and Mr. Ponsonby was of opinion that the measure would have been a salutary one. It was, however, rejected by a majority of 153.

In the session of 1810 the veto was again brought under the consideration of parliament. Mr. Ponsonby supported the measure :—" But veto or no veto, it appeared to him that government were inclined to do nothing for Ireland. Force would never secure Ireland. The resident landlords were fewer than formerly, on account of the Union ; they therefore had better try their hand at a repeal of that measure. Ireland had never received from Great Britain any considerable advantage but at the moment of British embarrassment. If Great Britain went on refusing everything to Ireland, the House might depend upon it that the Irish would think the Union had made their situation worse than ever, and that what they might have had the power of obtaining from their own parliament, they would have no chance of procuring from that of the empire. They would look

to other and less legitimate friends, and the activity of the Emperor of France would not long leave them without the means of availing themselves of them, should they be induced to resort to such a desperate extremity. It was the duty of ministers, and if they neglected that duty it became the duty of parliament, to tell His Majesty how he might avoid losing Ireland. He would stake his reputation, if the present system continued, that either during the life of His Majesty, or that of his immediate successor, such a convulsion would be experienced in Ireland as would shake it to the centre, or separate it altogether from Great Britain."

Great was the indignation awakened in Ireland by the proposition of the veto. O'Connell from the first opposed it. A Protestant sovereign nominating Catholic bishops is thus spoken of by Edmund Burke, in his letter to a peer:—"Never were the members of one religious sect fit to appoint pastors to another. Those who have no regard for their welfare, reputation, or internal quiet, will not appoint such as are proper. The Seraglio of Constantinople is as equitable as we are, whether Catholic or Protestant; and, where their own sect is concerned, full as religious; but the sport which they make of the miserable dignitaries of the Greek Church, the faction of the Harem, to which they make themselves subservient, the continual sale to which they expose and re-expose the same dignity, and by which they squeeze all the inferior orders of the clergy, is nearly equal to all the other oppressions together, exercised by Mussulmen over the unhappy members of the Oriental Church. It is a great deal to suppose that the Castle would nominate bishops for the Roman Church of Ireland with a religious regard for its welfare. Perhaps they cannot, perhaps dare not, do it." And in another letter to Dr. Hussey, the Catholic Bishop of Waterford, he writes:—"If you (the Catholic bishops) have not wisdom enough to make common cause, they will cut you off one by one. I am sure that the constant meddling of your bishops and clergy with the Castle, and the Castle with them, will inevitably set them ill with their own body." This project of the veto was defeated, but was brought forward again and again during the struggle for emancipation. It was never successful.

The earthly career of George Ponsonby was brought to a close in 1817. Assiduous in his parliamentary duties, he was struck down by a paralytic stroke in the House of Commons. Lingerin on, he had the satisfaction, before his reason left him, of being reconciled to his early friend John Philpot Curran. His only child, Elizabeth, wife of the Hon. Francis A. Prittie, watched by his death-bed, and saw him breathe his last on the 18th of July, 1817. His remains were interred in the graveyard

attached to Kensington church, where a simple stone marks their resting-place. Lord Howick, in his place in the House of Commons, on the 3rd of July, 1808, thus spoke of the merits of George Ponsonby:—"Never presided in Ireland a more upright and efficient judge, or one who had rendered such universal satisfaction."

109. A. D. 1807. — LORD MANNERS (THOMAS MANNERS SUTTON). Sir Robert Manners, in the reign of Henry VI., won the heart and the hand and the estates of the Baroness de Roos, one of the greatest heiresses in England. Following in his footsteps, his son Sir George Manners married the niece of Edward IV., King of England. Her name was Anne St. Leger, and from those illustrious ancestors was descended John Manners, fourth Duke of Rutland; and he also married an heiress, the daughter of John Sutton, Lord of Lexington. They had several children, but it was to George, the fourth son, that the Lexington estates were devised, and therefore he assumed the name of Sutton in addition to that of Manners; and he, too, left many children, the fourth of whom was Archbishop of Canterbury, and the fifth, of whom we write, was Lord Hugh Chancellor of Ireland. He was born on the 24th of February, 1756, and was sent after his early education to Emanuel College, Cambridge, where in 1777 he was placed fifth amongst the wranglers. In 1780 he was called from Lincoln's Inn to the bar. Twenty years after his call he received a silk gown from the tory Chancellor, Lord Thurlow, together with the Solicitor-Generalship to the Prince of Wales. Mr. Addington appointed him Solicitor-General for England and gave him a knighthood. In 1805 he was raised to the bench as a puisne Baron of the Exchequer, and in 1807 was sent over to Ireland as Lord Chancellor of that country. The Catholics who had been appointed to the commission of the peace by Lord Chancellor Ponsonby he superseded, while the Orangemen were everywhere set up in their stead. Emancipationists, be they Protestant or Catholic, were the objects of the Chancellor's pious detestation, and they were accordingly subjected to countless annoyances. This may be exemplified by Lady Cloncurry's case. Her ladyship had been married to Lord Russborough, eldest son of the Earl of Milltown. This young man died during his father's lifetime, never having inherited the earldom, consequently, when his eldest son succeeded to the earldom and estates on Lord Milltown's death, his younger children were not entitled to the rank of "earl's younger sons," and took rank amongst the "gentlemen, a rank which be," according to Sir William Blackstone, "right cheap in this country." The Crown usually in such cases grants to the younger children of the eldest son of a nobleman the same privileges that

they would have enjoyed had their father been an earl. Soon after the death of Lord Russborough, his widow married Lord Cloncurry, and she then made the usual application to the Lord Chancellor on behalf of her infant children. He was at first of opinion that the ordinary rule should be followed, but on reconsidering the question, he arrived at a different conclusion, and declared that Lady Cloncurry could not have the relief she prayed for on behalf of her children, on the grounds that her second husband was a supporter of Catholic emancipation, an enemy of Protestant ascendancy, and a violent opponent of the government. Mrs. Douglas, mother of Lady Cloncurry, then waited on Lord Manners, and unsuccessfully urged the claims of her grandchildren. His lordship informed her that "Lord Cloncurry was hostile to the government, and that when a woman marries to injure her children's prospects in life, she must submit to the consequences."

This conversation Mrs. Douglas took the very questionable course of embodying in an affidavit, which she swore before a magistrate, that magistrate being Lord Cloncurry, who, indignant at the liberty thus taken with his name, immediately addressed the following letter to the Chancellor:—

"DUBLIN, *June 25, 1817.*

"MY LORD,— . . . Your lordship, in a recent interview with Mrs. Douglas, had the offensive and indiscreet candour to declare that, however favourably you were disposed towards Lord Milltown, yet that he being under my protection, the request could not be granted, nor would you do anything in the business because I was an 'emancipator, an enemy to the Protestant ascendancy, and a violent opposer of the government.' And in relation to Lady Cloncurry you added, 'that when a woman marries to injure her children, she must submit to the consequences.' Now, my lord, I forbear to dwell upon the delicacy of mixing up political prejudices with the duties of your high station, and I also forbear to enter into any justification of my principles; but permit me to ask your lordship, where is the justice or equity of making them the ground for counteracting the humble wishes of a young nobleman, who, as a ward of your Court, is peculiarly under your guardianship and protection? and why should you use my name in a manner calculated to excite his prejudices, and the prejudices of his family against me, by attributing to me the disappointment of his hopes?"

"I am never ashamed to avow my political principles, and do not think them less respectable for differing from those of your lordship. I am deeply interested in the prosperity and

happiness of my native country, and detest that narrow-minded bigotry which destroys both. If you think you ought to punish me for this, you should confine that punishment to myself, and not visit it on unoffending persons."

The Chancellor in reply stated that he conceived Lord Cloncurry's letter extremely offensive, and a gross misrepresentation of facts as far as Lord Milltown was concerned.

Lord Cloncurry then forwarded a copy of Mrs. Douglas' affidavit to the Chancellor, who denied that he had ever used the words attributed to him, and complained that "she should have made the supposed substance of a conversation, which was pressed upon him in his study, the subject of an affidavit." In 1817 Lord Talbot succeeded to the viceroyalty, and one of his first acts was to obtain from the Prince Regent the grant to the Leeson family of the privileges so long withheld.

The monotonous life of the Chancellor, from his acceptance of the Seals in 1807 to the trial of Queen Caroline in 1820, was unbroken by many incidents worthy of remembrance. In that year he was in his place in the House of Lords when revelations bringing scandal on the English court were made. The Prince of Wales had been married, on the 8th of April, 1795, to his first cousin, Caroline, daughter of the Duke of Brunswick. She had bestowed upon him an enormous fortune; but that marriage was an unhappy one. Hatred and disdain held the place of love and affection; and she finally left her husband after the birth of their child in 1796. Her Royal Highness, unaccompanied by the Prince of Wales, left England and proceeded on a tour through the south of Europe. In the north of Italy she had introduced into her household a domestic servant, whose name was Bergami, and for the short space of three weeks he held the place assigned to him amongst his fellow-servants. Thenceforward he ceased to be the attendant and became the companion of his royal mistress. He accompanied her to Palestine, and, indifferent to public opinion, she appeared with him in places of public resort, and the satirical journalists of that day did not blush to describe her appearance and dress as the "genius of history," when she was forced by the authorities to retire from a masked ball given in Naples. Her acts and deeds, shameless, open, and barefaced, were the topic of conversation all over the civilized world. In 1819 a commission was sent to Italy for the purpose of collecting evidence as to her guilt. They found little difficulty in doing so, and then returned, bringing with them irrefragable testimony of her profligacy. The death in 1820 of George III. brought the Prince Regent to the throne. His wife thereupon became queen, and entitled to have her name inserted in the liturgy for the prayers of the faithful, immediately

after the prayer for the king ; but her name was omitted, and it was to *avenge* that affront that she returned to England in 1820. The king, however, had other views ; he was resolved not alone to keep her name from the Prayer-book, but to obtain a divorce *à vinculo matrimonii*. A bill was accordingly brought in for that purpose, and it became requisite and necessary to establish the several accusations made in the preamble ; and the measure then assumed the appearance, and, in common *parlance*, the name of “the trial of Queen Caroline.” Lord Manners took an active part against the accused. His speech on that memorable trial reposes in decent obscurity amongst the parliamentary debates. His lordship, having analysed the evidence, said :—“That proofs so circumstantial as those which had been advanced in the case could not be doubted. He was of opinion that the evidence had substantiated the allegations in the bill. There was no man who could regret more than he did that such a bill should become necessary ; but as it was necessary, their lordships were bound to do their duty. It was impossible to allow this woman to ascend the throne after the establishment of the case against her. The arguments in support of the bill he considered to be irresistible. He was perfectly satisfied in his mind that the preamble had been proved, and therefore he would give his consent to the second reading of the bill.”¹

Lord Manners was followed by other speakers. The ministry had expected a large majority in the Upper House ; but some of their lordships wavered at the last hour, and on a division the third reading was carried by so small a majority—only nine votes—that all hope of success in the Commons was at an end. The bill was accordingly withdrawn. Henry, afterwards Lord Brougham, was counsel for the wronged but erring queen ; unsparing in invective and merciless in sarcasm, he awakened the passions of the people in favour of his client.

In the summer of the following year, 12th of August, 1821, the king, then in mourning for his queen, landed at Howth, and he was received with much enthusiasm by his Irish subjects. Then, for the first time since the Union, were the distinctions of Catholic and Protestant forgotten, and all parties vied in giving a hearty welcome to the first English king who had come on a peaceful mission to the Irish shores. The dislike engrafted in his nature to the Catholic faith prevented Lord Manners from coming much into contact with the Catholics, and he accordingly absented himself as much as possible from court during the king’s visit to Dublin. The change of ministry in 1827 caused his resignation, and he took his seat for the last time in the Court of Chancery on the 27th of July in that year. The busi-

¹ *Hansard’s Parliamentary Debates.*

ness of the day having closed, the Attorney-General (Mr. Joy) rose, and thus addressed the retiring Chancellor:—

“My lord, as your lordship is about to retire from that high station which you have filled in this country, and as we see you now for the last time in this Court, where you have presided more than twenty years, we cannot suffer the occasion to pass without endeavouring to express, though in very inadequate terms, some of those feelings with which we view your departure from amongst us. My brethren have done me the honour of selecting me as their organ to express our common feelings upon the occasion which has assembled us before you. When, my lord, we consider that during your continuance in office no fewer than 4469 causes have been decided by you, and of these only fourteen have been reversed and seven varied—when we revert to your lordship’s inflexible rule never to close your sittings whilst a single cause remained undisposed of, we cannot but admire that distinguished ability, that strict impartiality, and that unremitting assiduity with which you have discharged the duties of your office. The anxiety which you have always evinced to elevate our profession, and to cherish in its members that purity of conduct for which they ought to be ever distinguished, has entitled you to our warmest regards; whilst the dignified urbanity and uniform courtesy which have always marked your intercourse with every individual of the bar, whether in public or private, have so identified you with our most gratifying recollections, that in losing you we feel we are deprived not only of the judge whom we respect, but the friend whom we love. It would be foreign to the character in which we address you to advert to those amiable qualities which distinguish you in private life, to enlarge on that charity which knows no bounds, or to describe the feelings of the widow and the orphan at your departure; but I may express the sincere sentiments of my brethren who surround me, and assure you that your memory will long remain associated with our kindest feelings, and that your retirement from office cannot and will not efface that affectionate attachment with which you are regarded by us, and which must always make us deeply interested in your future happiness and welfare.”

The Chancellor having replied in the usual terms of gratitude to the bar, thanked them for the assistance they had afforded him, and then withdrew. He was subsequently honoured with a parting address by the Lord Mayor and Corporation of Dublin.

Lord Manners returned immediately to England, and lived thenceforward near Bury St. Edmunds. His lordship appears to have seldom taken part in the parliamentary debates. His hatred, however, of the Church of Rome called him to his place in the House of Lords in 1829, when the question of Catholic

emancipation was brought forward by the Duke of Wellington in the House of Lords.

Lord Manners was strongly opposed to the passing of this measure, against which he spoke and voted. He said¹ "that he had to complain of the Catholic Association, and its tendency to exasperate the public mind. He deprecated the spirit which had prevailed in all the proceedings of that angry association. It was impossible," he said, "to grant the Catholics the concessions they sought, and afford any protection to the Established Church in the (then) present temper of the Irish nation. The Catholic Association, which might be considered as displaying the spirit and disposition of their brethren, had hitherto done their utmost—in many instances but too successfully—to separate the tenant from his landlord, to produce discord and anarchy throughout the country, and to estrange the loyalty and allegiance of all their fellow-subjects over whom they could exert any influence. It had been said, that concessions to the Catholics were demanded by policy and justice, but he could not perceive the applicability of either. With every disposition to grant emancipation, if such a measure could be conceded consistently with safety to the Establishment, he could not consent, under existing circumstances, to acknowledge claims which were essentially pernicious to the Protestant religion."

His opposition was in vain, and the measure was carried through the House of Lords by a majority of 104. The passing of the Catholic Relief bill was followed by the bill for disfranchising the forty-shilling freeholders, and for raising the county qualification to £10 a-year—five times greater than the qualification required in England. Only seventeen members of the House of Commons voted against this grievous injustice. It was introduced by Sir Robert Peel on the ostensible ground that there was too great a disposition on the part of Irish landlords to divide their land into minute portions. Lord Manners, in support of the measure, said that—

"Judging from the practical effects of the bill of 1793, he could not conceive any measure more calculated to improve the general state of Ireland, and improve the poorer classes of its inhabitants, than the proposed bill. It would renew and strengthen those ties between landlord and tenant so beneficial to both, but which had been broken in upon by the Catholic Relief Act of 1793. He looked on the bill as an act of justice, and one which would confer considerable benefit upon a great portion of the forty-shilling freeholders themselves. . . . He supported the bill before their lordships from a moral conviction that it would improve the morals of the people and add to the public peace of

¹ *Hansard*, vol. ix., N. S., 10.

Ireland. But as this bill was so intimately connected with another measure (Catholic emancipation), still within their lordships' House, he hoped he might be allowed to say a few words upon it. He had voted against that other measure, but he had done so with pain, as it must ever give him pain to vote against the noble duke (Wellington), for whom he entertained the highest respect. But he assured the noble duke and his colleagues, that in having changed their opinions on this great question, they had not diminished but increased his confidence in them. When he saw the noble duke and his friends supported by so many noblemen whose wisdom, talent, and integrity, were unquestioned—men whose only interest was in the prosperity and tranquillity of the country—so far from distrusting the noble duke, he could not help fearing that his own opinion was not right.

"He (Lord Manners) hoped that he should find that his opinion was wrong; and when the Catholic emancipation bill was passed into a law, he trusted it would have the effect of tranquillising Ireland, of uniting Protestant and Catholic, or at least of depriving the latter of all cause of complaint; that it would strengthen the hands of government, and give the country at large a more general confidence in the protection of the legislature."

Amongst those who opposed this measure were Lord Dunsannon, Lord Palmerston, and Mr. Huskinson. Their argument was:—"If the forty-shilling freeholders had been corrupt, their disfranchisement might be defended; but the only offence of the persons against whom the bill was directed had been, that they exercised their privilege honestly and independently, and according to their conscience." This bill also passed, and thus the government of the day desired to hold back with one hand what they had been obliged to give with the other. This debate was the last in which Lord Manners took an active part. Old age, with its infirmities, was closing fast around him. He then retired from public life, and spent the remainder of his days in the society of his wife and child. He had been twice married, first to a daughter of Sir John Copley, Bart., and secondly, to the sister of Lord Glengall. By his second marriage he had an only son, who was born in 1818, and who became, on the death of Lord Manners, in 1842, second baron.

The decisions of the Chancellor carry little weight. Many of them are to be found in *Ball & Beatty's Reports*. "He was a bad lawyer," said O'Connell; "but he was the most sensible-looking man talking nonsense he ever saw." Lady Morgan relates that his lordship had given to that lively writer her first lesson in salad making; but when he discovered the emancipating tendency of her novel of *O'Donnell*, he ordered the book to

be burnt in his servants' hall, and vented his spleen by saying to his wife, "I wish I had not given her the secret of my salad."¹

110. A. D. 1827.—SIR ANTHONY HART, Knt.—Sir Anthony Hart, the son of a Unitarian minister, was born in the year 1759, in the island of St. Christopher. At an early age he was sent to England for education, and placed at Tunbridge School. In the year 1776 he was admitted a student of the Middle Temple, and called to the bar in 1781. He practised first in the West Indies, and afterwards at the Chancery bar in England. In 1807 he was appointed one of His Majesty's counsel, and in the same year elected a bencher of the Middle Temple. In 1813 he was selected to fill the office of Solicitor-General to Her Majesty Queen Charlotte. On the 20th of May, 1827, he was appointed successor to Sir J. Leach, as Vice-Chancellor of England; he also received the honour of knighthood, and was sworn in as one of His Majesty's Privy Council. In the autumn of the same year, on the retirement of Lord Manners, he was raised to the Chancellorship of Ireland. His appointment is thus noticed in the *Law Recorder* :—

"Lord Manners is succeeded by Sir Anthony Hart, and the claims of the latter to the Chancellorship of Ireland supersede those of Lord Plunket, now Chief Justice of the Common Pleas. We congratulate Sir Anthony Hart on the good fortune which placed him in the line of promotion next after Lord Manners and before Lord Plunket, because, although he has abundant ability to succeed Lord Manners, it would be difficult for his country, or any country, to find an adequate successor to Lord Plunket. It would be a considerable difficulty, even for a great English lawyer, to succeed Lord Plunket as Chancellor, and no great difficulty for any lawyer to succeed Lord Manners. Therefore, again we congratulate Sir Anthony Hart on the felicity and facility of his position, and feel no doubt that we may congratulate the suitors in Chancery on the difference between Sir Anthony Hart and his predecessor.

"The present Chancellor of Ireland seems to be under sixty years of age, with all the appearance of a hale constitution, and a placidity of temper which doubtless has been cherished by his long absence from all political strife or altercation. His previous professional life, with the exception of the short period during which he sat on the bench as Vice-Chancellor, has been that of a barrister of studious habits and extensive business. His eye—somewhat of the Curran description—is piercing yet kindly; his features are strong but not harsh; and his countenance is marked with the mingled traits of deep thought and good-humour. He seems to possess in an eminent degree those

¹ *Memoirs*, ii. 495.

two great qualities for a judge in which so many of our Irish judges have been so lamentably deficient—we mean temper and patience. In other respects he may be distinguished from those judicial characters last referred to—of the lofty arrogance, of the imperious superciliousness that so often accompanies authority, of the insolence of office, of the proud man's contumely, he has none. His conduct to the bar is communicative, conversational, accommodating, friendly, and not more friendly to one man than to another. We distinguish more of the brother barrister in him than in most judges whom we observe. His manner of doing business is of a man perfectly accustomed to it; the subjects seem quite familiar to him, with the exception of the peculiarities of Irish practice; and he discloses the fruits of his own professional experience in a mild and easy manner, in a ready flow of plain yet lucid language, and in low yet loud undertones, the most stimulating we ever heard; no single word is lost to any man in the Court."

Sir Anthony Hart had been a short time in office when a circumstance occurred which threatened to bring the entire business of the Court to a dead lock. Sir William Mac Mahon, then Master of the Rolls, appointed Mr. Frederick Shaw as his secretary, with whom all petitions "addressed" to his Honor, and movable in the Rolls Court, should be lodged. The Chancellor denied that the Master of the Rolls had power to appoint a secretary; and he directed, after the question had been brought before him by Mr. Shaw, that in future all petitions in the Court of Chancery should be directed to the Chancellor and lodged with his secretary, and he added that there was no power to enforce an order made on a petition directed personally to the Master of the Rolls. There was no analogy whatever between the offices of Master of the Rolls in England and Ireland. In England that functionary has a secretary, and petitions addressed to his Honor are lodged with him. But the one is a judicial officer by prescription, and the other is not; the Masters of the Rolls in England appoint their secretaries, and have done so from the reign of Richard I., while in Ireland no such case can be made. That office has had its function, of which it was deprived in the early part of the eighteenth century, only restored to it in the year 1801, by the Act of 41st George III.

A question of great importance was brought before the Chancellor in relation to an order made by certain justices of the peace in the south of Ireland, whereby professional men were entirely excluded from practising in these courts.

That the magistrates of the last and of the early part of this century had an innate horror of attorneys is a matter too well known to dispute. The cause of such dislike is self-evident. When the humble and oppressed people had not the assistance

of those men, the rich and the powerful might treat them, as they too often did, as serfs; but when the attorney, the real protector of the liberties of the people, "was at hand," the country gentleman knew, perhaps to his cost, that he must adopt a different course with his humbler neighbours. The following advertisement, quaint and amusing, will convey to the mind an idea of the dread the Irish country gentleman had of attorneys a hundred years ago:—

"To be let, from the 1st of November, 1779, the house and demesne of —, situated near the town of H—d, in the Co. Galway. There is a rookery on the lands, good sportinge, and *not an attorney* within 12 miles on any side.—Apply to," &c.

Later on, even in the present century, the county magistrates were unfavourable to professional men practising in their courts, and rules were not unfrequently made to exclude them; and it was a rule of this nature, made by the magistrates at the Bruff Petty Sessions, county of Limerick, that was now brought under the consideration of the Lord Chancellor.

It appears that on the 26th of August, 1829, the presiding justices were Messrs. Darby O'Grady and Michael Beavan; on that occasion a civil case of much importance was in the list for hearing, being a summons to recover penalties under the 57th Geo. III., chap. 108. Mr. Croke, a member of the bar, said he appeared as counsel in the case, but their worships having regard to the rule of their court, refused to hear him; he persisted, and was forthwith put into the dock. Returning to Dublin, he brought the matter under the notice of the bar, who were unanimous in their condemnation of the conduct of the magistrates, which they conceived to be an insult to their profession. A meeting of the whole bar was convened, and the result was that they adopted a memorial, which was presented to the Lord Chancellor, calling upon him to remove those gentlemen from the commission of the peace. His lordship then communicated with Mr. O'Grady, the senior magistrate, as follows:—

"DUBLIN, 11th December, 1829.

"SIR,—The memorial I transmit with this letter was sent to me by the assembled bar of Ireland. The proceedings at the sessions to which it refers surprised me when I heard of them. As the head of that body to whom His Majesty confided the dispensation of justice to his subjects in this country, it is my duty to inform you that it is the privilege of those subjects to be heard by counsel in all his courts, for supporting and defending their civil rights; and the rule last laid down in the court where you preside precluding that privilege is illegal, and must be rescinded.

"I am, &c.,

"ANTHONY HART, C.

"DARBY O'GRADY, Esq."

Mr. O'Grady instantly acknowledged the Chancellor's letter, and informed his lordship that he would lay his communication and the memorial before the magistrates at the next Petty Sessions at Bruff. On the 16th of December he made the following statement, in which, it will be observed, he admits that by a rule of his court neither counsel nor any other professional person could be heard:—

“MY LORD,—At a Petty Sessions held at Bruff on the 26th of August last the undersigned were the presiding magistrates, and the court was unusually crowded. A case against the toll-keeper of the fair of Drummin was called on. A *person* addressed the bench from the midst of the crowd, under the gallery, and at the back of the court. The magistrates desired him, if he had anything to say to the case before the court, to come forward and say it. This *person* then, without moving from his place in the crowd, which was pressing on, said he was engaged in this case. * The magistrates replied that it was the rule of the court *not to hear professional persons*. This *person* then said that the rule ought to be departed from, and was, he thought, unconstitutional. The magistrates replied it was the rule of the court, and that what he thought of it could not induce them to depart from it. He then added, that what he thought of it was of as much consequence as what they thought of it. He then became silent, and the case before the court was proceeding, when the business of the court was interrupted by a very general riot and disturbance, occasioned by the mob forcing its way into the court, and this *person* at its head, advancing in a riotous, menacing manner, using abusive language and insulting expressions to the magistrates, and holding up his clenched fists towards them in a threatening attitude. The magistrates instantly desired the police to put this *person* in the dock, and he was put in accordingly. He so remained in the dock fifteen or twenty minutes, when, on making an absolute apology for his misconduct, he was discharged. Here it may be necessary to remark that this *person* heard the bench refuse to hear a professional gentleman (stating that the rule forbade it), and also that he saw a man committed to the dock for insulting one of the magistrates, and that both those occurrences took place immediately previous to his first addressing the court. He therefore knew the rule of the court.

“The magistrates had never seen *this person* before, but after he was some time in the dock they were told his name was Croke, and that he was a barrister. This the magistrates think it right to state, that neither the rank or profession of any person could have shielded him in a court where they presided from the punishment due to such gross misconduct.

“From the unusually thronged state of the court, from the noise proceeding from the crowd, and from the part in the centre of it taken by Mr. Croke, who appeared as leader, there was nothing in Mr. Croke’s appearance or manner to alter the unfavourable impression; his face was partly disguised, as if to prevent his being recognised, and from his dress and deportment, and the whole tenor of his conduct, the magistrates never suspected he was a gentleman, and had considerable doubts as to whether he was sober. The very unfavourable impressions on the minds of the magistrates have received strong confirmation from information which has since reached them, and they beg to call your lordship’s attention to the following facts:—When Mr. Croke entered the Bruff Petty Sessions-house, which is also the Quarter Sessions Court-house, he addressed the crowd collected in the hall in a loud and distinct voice, and told them he was come there to humble the magistrates; that he would be assistant-barrister for that day, and several other such-like observations. The clerk of the court, seeing Mr. Croke was a stranger, and hearing he was a barrister, offered to conduct him to the seat set apart for professional persons, which offer Mr. Croke declined, and kept his station in the midst of the crowd at the back of the court. This place Mr. Croke occupied during his conversation with the magistrates, nor did he leave it until he began the riot for which he was committed; and he was not arrested in his scandalous career until he had reached the bench, and was proceeding to scramble into it.

“The magistrates beg, in conclusion, to assure your lordship that from their own observation, backed by the information they have received from others, they are convinced that Mr. Croke came to the Petty Sessions of Bruff on the 28th of August last with the intention of creating a riot; that he did afterwards create a riot; and that, consistently with the duty they owe to their country, to the administration of the laws entrusted to them, and their own characters as magistrates and gentlemen, the most lenient course they could have bestowed towards Mr. Croke was that which they adopted.

“With respect to reparation, the magistrates think, from the perusal of this statement, your lordship will perceive it would be due to them, had not that person already atoned for his misconduct by a very full and satisfactory apology.

“The magistrates feel great delicacy in making any allusion to the memorial presented by the assembled bar of Ireland, and which your lordship has transmitted to them. The magistrates hold the bar collectively in high esteem; to many members of that respectable profession they are bound by ties the nearest and dearest; with great reluctance therefore they feel obliged to offer an observation on that extraordinary document.

“It may be doubted that any body whatever (and the bar are no exception) should be allowed to decide on their own privileges; but when in the assertion of those privileges foul imputations are to be cast on others, there is no doubt that the greatest caution should mark their proceedings. In the resolutions of the bar the magistrates do not see that extreme caution which they should have expected from so august an assembly. The bar began by taking for granted a statement the truth of which they do not pretend to have investigated, but on the faith of which they do not hesitate to adjudicate; and accordingly they pronounce sentence on magistrates over whom they cannot presume to have any control; and, finally, they call on your lordship to carry into execution this ill-digested condemnation.

“It seems awkward that when lawyers are employed legally and constitutionally to protect and enforce the rights of others, time and money are squandered in lavish profusion before any conclusion can be arrived at; but when they undertake their own cause, with a hop, step, and a jump, they can clear away every obstacle, pronounce their sentence, and leaving law, justice, and jury far behind, with an unpardonable temerity, call on your lordship to become their executioner.

“We have the honour to be, &c.,

“DARBY O’GRADY.

“MICHAEL BEVAN.”

To this communication the Chancellor replied that he would submit their statement to the adjourned meeting of the bar; and should their differences prove irreconcilable, he apprehended that the subject-matter in dispute should be referred to some other tribunal. Mr. Croke then brought an action against the magistrates for a libel, which he insisted was contained in their letter to the Lord Chancellor. The case was tried before Lord Plunket, and resulted in a verdict for the plaintiff, £500 damages, and 6*d.* costs.

The bar, in thus bringing this insult to their body under the notice of the Chancellor, had conferred a boon on the public at large; for almost immediately the rule preventing suitors having the assistance of counsel was rescinded in every court where it prevailed throughout the country.

Sir Anthony Hart’s term of office did not extend beyond three years, and during those years his time was exclusively employed in the business of his court. Political leanings he had none; neither dispensing nor partaking of hospitalities, he lived a recluse. When the Duke of Wellington was asked why he sent such a specimen of a tory lawyer as Chancellor to Ireland, his reply was that he sent a sound lawyer, who cared not a straw for the society of one party or of the other, and one who had not a

spark of religious or political feeling.¹ "He is a good lawyer," said the witty Lord Norbury; "and the difference between him and his predecessor, Lord Manners, is that one is law without manners and the other Manners without law." It is a fact without precedent that not a single decision of his was ever varied or reversed. He lived a celibate; but into his life of celibacy it is needless to pry. He died at his residence, Portman-square, on the 13th of December, 1831, in the seventy-second year of his age.

111. A.D. 1830.—LORD PLUNKET, William Conyngham Plunket. The family of Plunket is of the remotest antiquity. They are said to have first set foot on the Irish shore with the Danes, in the ninth century, and to have been settled in Meath long before the arrival of the Norman host. In the peerage there are still existing several families of this name—the Earls of Fingal, the Lords of Dunsany, and the Lords of Louth. In past centuries many Plunkets sat both on the episcopal and on the judicial benches. Oliver Plunket, who died a martyr for his faith in London on the 1st of July, 1681, was Catholic Archbishop of Armagh, and another Plunket was Catholic Bishop of Ardagh. Richard Plunket was Chief Justice of the King's Bench; he died on Christmas Day, 1388, and, according to the annalist, "left behinde him a name so largely honoured, that the likes of him was never heard of." Sir Thomas Plunket was at once Chief Justice and a warrior, and was forced to resign his seat on the bench after he had fought for the impostor Simnel at the battle of Stoke, in 1487. Sir Alexander Plunket, of whom we have already spoken, was Lord Chancellor in 1492, and John Plunket was Chief Justice in 1559. Nor should the name of Christopher Plunket, Earl of Fingal, be forgotten by any that reverence the memory of those who perished for their religion in 1649.

In the reign of Henry VIII. there lived a Sir Patrick Plunket, knight, of the house of Louth, who married a granddaughter of Sir William Wells, the fifty-ninth Lord Chancellor of Ireland: he was ancestor of the martyred archbishop of whom we have just spoken, and of Patrick Plunket, of Glenan, in the county of Monaghan, whose branch of the family had become Protestant. This Patrick Plunket was a Unitarian minister in Enniskillen, and his son Thomas, born in 1725, followed his father's profession. His wife's name was Conyngham, and in 1750 there was born to him a son, Patrick, who became as eminent in physic as his second son, William Conyngham Plunket, was in politics and law. This last was born in 1764, and became, as he advanced in life, the ornament of the Uni-

¹ *Life of Lord Melbourne*, vol. i., p. 75.

versity, the senate, the bar, and the bench. In 1768 Thomas Plunket was appointed minister of Strand-street meeting-house, in Dublin, and, being possessed of some powers of eloquence, drew a considerable congregation around his pulpit. His son, the subject of this memoir, entered Trinity College as a pensioner, and is said to have given no token of his future eminence during most of his undergraduate course. But when he joined the Historical Society, then indeed his light shone forth in almost its fullest splendour. His early associates in the University were Theobald Wolfe Tone, who was called to the bar in 1780, and was long the paid secretary of the Catholic Committee—his life was lost in the troubles of 1798; Charles Kendal Bushe, afterwards Chief Justice, who, according to the playful fancy of Grattan, “spoke with the lips of an angel;” Peter Burrowes, Whitley Stokes, and Thomas Addis Emmett—all of them men of genius; all of them labouring in their country’s cause; all of them Protestants; but all of them banded together—and this is a fact which should never be forgotten by the Catholics—to loosen the bonds that bound their Catholic fellow-countrymen.

At what time William Conyngham Plunket joined the Church of England we have no exact means of knowing. In his third year in the University he became a Scholar of the house, and joined the Historical Society. He was twice its president, was rewarded with gold medals in oratory, in composition, and in history, and won a prize essay on “a Defence of the Age.”

Immediately after his call to the bar, in 1784, he joined the north-east circuit. Although there were in that year three coaches running, some of them twice a-week, from Dublin to Newry, there was yet not a single other public conveyance all over the province of Ulster; nor was it looked on as professional for a barrister on circuit to travel by public coach even to Newry. Consequently the bar rode from assize town to assize town on horseback, each barrister with his mounted servant in attendance upon him. The judges were in the saddle early on travelling days, and not unfrequently their wives rode on pillions behind them. At the appointed hour the bugle sounded; the high sheriff, with a score of halberdmen in livery, waited outside the judge’s lodgings. The bar was collected, each barrister having his circuit library and clothes stowed away in the saddle-bags on his servant’s horse, while a couple of huge leathern bottles, well filled with claret, dangled at his horse’s flanks. His flowing cloak, which in winter covered the horse and the rider, was in summer rolled in military style at the crupper of the saddle; while at the saddle-bow were the horse pistols, ready at any moment to protect his life if attacked by the gentlemen of the

road, or his honour if wounded by real or imaginary insults. The sub-sheriff followed the bar at a short distance, and the whole of this moving mass dashed on at a brisk trot, while a squadron of dragoons brought up the rear.

Accident brought Mr. Plunket under the notice of John M'Causland, who was then the great northern attorney; a brief, with the accustomed fee, was sent from his office to Mr. Plunket's lodgings. Immediate attention was required, and was bestowed, and he gave so much satisfaction that case after case was entrusted to him, and he soon became the advising counsel of that house. Professional acquaintance ripened into friendship, and he married, after a time, the daughter of his friend.

Although Mr. Plunket cultivated the intimacy of the patriotic section of the bar, he yet appears to have been thrown less in the way of Wolfe Tone than he had formerly been. Tone was at length forced to fly to America, and on the eve of his exile Plunket wrote to him as follows:—

"DEAR TONE,—I embrace with great pleasure the idea and opportunity of renewing our old habits of intimacy and friendship. Long as they have been interrupted, I can assure you that no hostile sentiment towards you ever found admittance into my mind. Regret, allow me the expression, on your account, apprehension for the public, and great pain at being deprived of the social, happy, and unrestrained intercourse which had for so many years subsisted between us, were the sum of my feelings. Some of them, perhaps, were mistaken, but there can be no use now in any retrospect of that kind. It is not without a degree of melancholy I reflect that your present destination makes it probable that we may never meet again, and talk and laugh together as we used to do, though it is difficult to determine whether these jumbling times might not again bring us together. In all events, I shall be most happy to hear from you, and write to you, often and fully, and to hear of your well-being, wherever you may be. If I had known your departure was to have been so very immediate, I would not have suffered you to slip away without a personal meeting. I shall hope to hear from you as soon as you get to America. I formerly had friends there. The unfortunate death of my brother you have probably heard of; perhaps, however, I may still have some there who might be useful to you. Let me know where and in what line you think of settling, and, if any of my connexions can be of use, I will write to them warmly.

"I beg you will give my best regards to Mrs. Tone, and

"Believe me, dear Tone,

"With great truth, your friend,

"May 29th, 1795."

"W. PLUNKET.

Tone sailed to America, thence to France, and within the next three years had engaged the French and Dutch governments to direct three expeditions to the shores of Ireland; had served with the French army as adjutant-general; was acting in confidential council with Hoche, Bonaparte, Carnot, and was as well known and accredited in the *bureaux* of the Directory and at the Hague as the official of any regular legation. Three years of miraculous work!—while Bushe lamented in the House of Commons that he should be “wasting on the desert air of an American plantation the brightest talents that he ever knew a man to be gifted with.”

We have spoken of the trial of the Sheares' in another place (*supra*, p. 171). Curran conducted their defence, and with him Plunket was associated. He had been in 1797 appointed one his Majesty's counsel, but we do not find that he appeared for the Crown in any of the prosecutions for high treason that followed the rebellion of the succeeding year. In the House of Commons, which he entered in 1798, as member for the borough of Charlemont, he opposed the Union; and, as a constitutional lawyer, denied the competency of parliament to vote away its existence—“as well,” he said, “might the frantic suicide hope that the act which destroys his miserable body should extinguish his immortal soul.”

In another place he says, “Who will say that when the Imperial Parliament shall have got an uncontrolled power over Ireland, that they will not make local laws for the government of this country? Who will answer that when the *Habeas corpus* shall be suspended in Ireland, it shall be also suspended in Great Britain? Who will say that the miserable inhabitants of this remote and barbarous province shall not be smarting under the fetter and the whip, while the British Parliament, in its imperial dignity, shall sit unconcerned at our sufferings, and out of the reach of our cries?” The last words of anguish spoken in the Irish Parliament were spoken by Plunket!

To advocate their client's cause is the well-known duty of the lawyer. He is bound to accept a brief; it may be to prosecute the subject, or it may be to defend, and therefore it is that one reads, without feelings of astonishment, that Mr. Plunket appears at one time as the defender of John and Henry Sheares from a charge of high treason, and at another time assists the Crown in prosecuting Robert Emmet on a similar charge. Mr. Plunket has been assailed for having acted in this last case, but it is impossible to forget that if he were to practise at his profession at all, he was bound not to refuse a brief from those who retained his services.

The trial of Emmet for high treason took place at a commis-

sion presided over by Lord Norbury, on the 19th of September, 1803. Standish O'Grady, Attorney-General; M'Clelland, Solicitor-General, and Plunket, were counsel for the Crown; Peter Burrowes and Leonard MacNally, for the prisoner.

Evidence was duly given of Emmet's acts of rebellion, of his preparations at Thomas-street, of his appearing in green uniform with his lieutenants, Michael Quigley, Dowdall, and Stafford, of the speedy termination of the insurrection, his subsequent flight to the mountains, and arrest. The proclamations and other documentary evidence were then given in, and the case closed on the part of the Crown. The scene which follows is from the report:—

“Mr. MacNally.—My lord, Mr. Emmet says he does not intend to call any witness, or to take up the time of the court by his counsel stating any case, or observations upon the evidence; and therefore I presume the trial is now closed on both sides.

“Mr. Plunket.—It is with extreme reluctance that, under such circumstances, and in a case like this, I do not feel myself at liberty to follow the example which has been set me by the counsel for the prisoner.

“Mr. MacNally.—I beg pardon; I am, then, to call on the Court to decide a matter of practice. No doubt the Crown is entitled to the last word—that is, a reply; but if I understand anything of the arrangement of criminal trials, it is this: the counsel for the prosecution states the case; after the evidence given in support of it, the prisoner is called upon to state his case; and if he does, the counsel for the prosecution has a right to reply; but I conceive that the word *REPLY*, according to its true meaning, is this:—observing upon that which has been urged in answer to the charge; but if there has been no answer, there can be no reply. I believe the case is new; at least since the proceedings in treason were regulated by statute, there is no instance where there had not been a defence made by the prisoner's counsel, and an answer given to the evidence against him; therefore, I say, it is a new case. However, we do not intend to press the objection further, unless my learned friend with whom I have the honour to act should think proper to add anything in support of it.

“Chief Justice.—Were it a matter of any doubt, it would be our duty to have it spoken to; but as there can be no doubt that the counsel for the Crown have a right to speak to a great body of evidence, and that the counsel for the prisoner cannot by their silence preclude the Crown from that right—we cannot prevent the reply; if we did we should introduce a novel practice, which never prevailed in any of the State trials, into many of which for some time past I have looked.

"*The Attorney-General*.—It is at my particular desire that Mr. Plunket rises to address the jury upon this occasion."

Mr. Plunket then addressed the jury. It has been said that he wantonly insulted that dying and defenceless man. The answer was, that it was false—absolutely false. I have read many, if not all, the reports of that painful trial, and am unable to find a trace of the fact. It was not, then, true that Mr. Plunket insulted that unhappy man; but it was true that the Attorney-General of the day requested Mr. Plunket, when Emmet offered no evidence and would not suffer his counsel to address the court, to make that speech in order that he might deliver a practical exhortation to the rest of His Majesty's subjects, to warn them from pursuing the same course as the misguided but brilliant young man who stood there, with no fearing heart, in the dock. The memory of Lord Plunket, then, was clear of the heavy stain which was attempted to be cast on it.

Lord Norbury's charge then followed, and the jury, without turning in the box, found the prisoner guilty.

Mr. Emmet, through his counsel, asked that the judgment of the Court might be postponed until the next morning. This request was not granted. The Clerk of the Crown then asked, "What have you now to say why judgment of death and execution should not be awarded against you according to law?" Robert Emmet, upon the instant, made reply in a speech pronounced to be one of the most splendid and powerful effusions of impassioned eloquence which ever fell impromptu from the lips of man.

Of that speech there exist many editions. Thomas Moore, in his diary, February 15th, 1831, mentions Mr. Burrowes having remarked to him:—"The passage in a printed speech of Emmet, where he is made to call Plunket 'that viper,' &c., was never spoken by Emmet." The prisoner was executed on the day next following the trial.

On the 22nd of October, 1803, Mr. Plunket was sworn in as Solicitor-General under the government of Mr. Addington. That ministry was short-lived, and Mr. Pitt returned to power on the 15th of May, 1804. Nominally he had been in the opposition since his retirement on the 17th of March, 1801, but on his return to power he made no change amongst the law officers of the Crown in Ireland. Lord Redesdale was continued as Chancellor; O'Grady remained Attorney- and William Conyng-ham Plunket Solicitor-General.

Mr. Plunket's conduct in the case of Emmet was the object of much comment in the papers of that day. Juverna, in *Cobbett's Weekly Register*, attacked him in envenomed language, and he accordingly brought an action for libel against Mr. Cobbett, laying his damages at £10,000. The manuscript was produced,

and witnesses were found to swear that it was in the handwriting of Judge Johnson. The government therefore resolved to prosecute this latter for libel, and to bring him over from Ireland to Middlesex for trial, as the libel had been written and published in London. But there was a difficulty in the way. No law was then in existence giving power to remove offenders from Ireland to England or *vice versa* for trial. An *ex post facto* Act was immediately enacted to supply this defect. The Judge was brought to London and tried before Lord Ellenborough, and was found guilty; but the Attorney-General never applied for judgment!

On the 11th of February, 1806, the whigs came into office, Lord Grenville being Prime Minister. Plunket, who had been appointed Attorney-General by Mr. Pitt in the month of October, 1805, was continued in office by his successor, though the Lord Chancellor, Lord Redesdale, as we have already related, lost the Seals.

The Grenville ministry having lived for little more than one year, the Tories returned to office on the 31st of March, 1807, the anti-Catholic Lord Eldon being Lord Chancellor of Great Britain, and Lord Manners Lord Chancellor of Ireland. Mr. Plunket was of course dismissed, and fifteen years elapsed before he was again appointed Attorney-General. He was meanwhile honoured by the Crown with a right of pre-audience and precedence "in all places and upon all occasions as well in the Courts as elsewhere." In 1813, he spoke in his place in parliament on the Catholic claims and in favour of emancipation. He was then member for the University of Dublin, which he continued to represent until his elevation to the peerage.

On the death of Mr. Grattan, on 7th of June, 1820, the conduct of the Catholic cause in parliament came into the hands of Mr. Plunket. In the month of February following he introduced a bill for Catholic emancipation; but that bill was unacceptable to the great majority of the Catholic party, inasmuch as it sought to legislate on the election of bishops, and purported to give a power to the Protestant sovereign of Great Britain to interfere in the appointment of the Catholic episcopacy.

"He proposed to regulate and legalise within the proper limits the intercourse with the See at Rome, so as to satisfy the State that the communication for spiritual purposes shall not be perverted to become an instrument of political intrigue.

"Next he proposed to *regulate* the appointment of the Roman Catholic bishops, so as to assure the government of the country, that they, and through them all the Roman Catholic clergy, shall be well affected to the State.

"But his next proposition, and that to which all others must

be secondary and subordinate, is to incorporate the Roman Catholics with the State—so to bind them to the present order of things that their interest shall be our security. To give to the well-affected the reward of his loyalty, and take away from the revolutionist the pretext and the instrument of his treason. To rivet the honest Roman Catholic to the State by every good affection of his nature, by every motive that can affect his heart, and every argument that can convince his reason, by every obligation that can bind his conscience; *not adding the weight of a feather to his power*, but by relieving his feelings from everything that is contumelious, insolent, and personal, by abolishing every odious distinction, every affrontful suspicion, every degrading exclusion. What is the remedy of honourable gentlemen? To leave them as they are. Gracious heaven! To leave the great body of the Irish people bound by the law of their nature to plot the subversion of the State! I say of the State, because I trust that every man who hears me will say, that to subvert the Protestant establishment is to subvert the State."

This speech sorely offended the Catholics, and Mr. O'Connell was unsparing in his denunciation of those measures, "which contained," he said, "more penal clauses than had been enacted in any Act of Parliament from the reign of Queen Anne to that time." The very oath which the candidates for holy orders should swear was an oath of abjuration of his faith. That oath was to be as follows:—

"I, *A. B.*, do swear that I will never concur in or consent to the appointment or consecration of any Roman Catholic bishop or dean, or vicar-apostolic, in the Roman Catholic church in the United Kingdom, but such as I shall conscientiously deem to be of unimpeachable loyalty and peaceable conduct; and I do swear that I have not and will not have any *correspondence or communication with the Pope or See of Rome*, or with any court or tribunal established or to be established by the Pope or See of Rome, or by the authority of the same, or with any person or persons authorised or pretending to be authorised by the Pope or See of Rome, tending directly or indirectly to overthrow or disturb the Protestant government or the Protestant Church of Great Britain and Ireland, or the Protestant Church of Scotland, as by law established; and that I will not correspond or communicate with the Pope or See of Rome, or with any tribunal established or to be established by the Pope or See of Rome, or by the authority of the same, or with any person or persons authorised or pretending to be authorised by the Pope or See of Rome, or with any other foreign ecclesiastical authority, on any matter or thing which may interfere with or

affect the civil duty and allegiance which is due to His Majesty, his heirs, and successors, from all his subjects."

Mr. Plunket's measures passed the Lower House, but were fortunately rejected in the Upper on the second reading. Great division and angry discussion had arisen amongst the Catholics with relation to them; but the majority of the country, headed by the prelates, repudiated them altogether, and hailed their defeat with undisguised satisfaction. On the 20th of March, 1821, Daniel O'Connell expressed his opinion of Mr. Plunket's bills in the following letter:—¹

"TO THE CATHOLICS OF IRELAND.

"*Limerick (on Circuit),*

"*17th March, 1821.*

"FELLOW-COUNTRYMEN,—Mr. Plunket's two bills are at length before you. The first Act is really an Emancipation or Relief bill. . . . The second Act gives no relief, and is simply a penal and restrictive law of the worst description. It is called an Act 'to regulate the intercourse between persons in holy orders professing the Roman Catholic religion with the See of Rome.' This title is not only broken English and bad grammar, but it is infinitely worse. It has all the characteristics of complete falsehood—the *suppressio veri*, the *suggestio falsi*. TRUTH is suppressed, because the principal object of the bill does not relate to such intercourse at all, but is to give the Secretary of the Lord Lieutenant the absolute appointment of all the bishops and all the deans of the Catholic Church in Ireland. Falsehood is suggested, because this is not a bill to regulate the intercourse (for *regulate* means 'to order by rule'), but it is a bill to control according to caprice that intercourse, and to control it according to the caprice of a Protestant Secretary of State. It is in this respect a bill to suppress the necessary intercourse upon matters of faith and discipline between that part of the Catholic or Universal Church of Christ which is in Ireland, and the Pope, or visible head upon earth of that Church.

"From the falsehood of the title, I proceed to the mischiefs of the proposed enactments.

"The Act contains two recitals and twenty-two sections. Any person desirous of obtaining with accuracy the minutest details of this important Act would do well to procure a copy of it.

"The first recital is in substance this—'Whereas, it is expedient that such precautions be taken with respect to persons to be appointed to exercise the functions of bishop or dean in the Catholic Church of Ireland, as that no person shall assume any

¹ *Life and Times of O'Connell.* By his Son. Vol. ii., p. 318.

part of such functions *whose loyalty and peaceable* conduct shall not have been previously ascertained to the satisfaction of His Majesty, his heirs and successors.¹ The second recital, a thing very unusual, repeats the first, as above, with the addition of saying, 'That it is fit, as well as expedient, to ascertain the loyalty and peaceable conduct of our bishops as well as deans.' I defy a single one to be named as even suspected of disloyalty, either now or in times passed, and you may take the dead as well as the living.

"There certainly was one Irish Catholic bishop tried and executed for treason, and he bore the un auspicious name of Plunket. But his case forms no exception. He was certainly innocent. The accusation against him was ridiculous. His trial and his death only reflect disgrace on the more infamous judges and juries of his day. His fate casts no shade on the loyalty of the Catholic bishops.

"The next thing to be ascertained after the loyalty is 'THE PEACEABLE CONDUCT.' Sacred God! the peaceable conduct of our deans and bishops! There are upwards of 3000 priests in Ireland, and whoever hears, or has heard, of any of them engaging in riots or fights, or showing anything but peaceable conduct?

"Come forward, Mr. Plunket—you who presume, with your double recital, to impute to at least some, if not to all, the priests of Ireland a tendency to break the peace—come forward and state whether you ever knew, or ever heard, of any other than peaceable conduct. You cannot allege that you have, and therefore allow me, in the sorrow of my heart, to ask you how you could have the heart to put upon perpetual record those horrid imputations on a priesthood who never offended you? It was scarcely decent of you, *the apparent* advocate of Catholics, to inflict ridicule, and even ribaldry, on our doctrine of the real presence, more especially when you appear not to understand the doctrine."

[The portion of Mr. Plunket's speech which O'Connell thus denounced is as follows]:—

"We all declare solemnly that we consider the sacrifice of the mass as superstitious and idolatrous. Now, I entreat each member of this House to suppose that I am asking him individually, and as a private gentleman, does he know what is said, or meant, or done in the sacrifice of the mass; or how it differs from our own mode of celebrating the communion, so as to render it superstitious and idolatrous? If I could count upon the vote of every member, who must answer me that upon his

¹ *Ibid.*, p. 315, line 1.

honour he does not know, I should be sure of carrying, by an overwhelming majority, this or any other question I might think it proper to propose. Were I now to enter on a discussion of the nature of these doctrines, every member would complain that I was occupying the time of the statesmen with subjects utterly unconnected with the business of the House or the policy of the country. Can there be a more decisive proof of its unsuitableness as a test?

“Still, even at the hazard of being censured for my irrelevancy, I must venture one or two observations on the point denounced. It is important that I should do so, because the truth is that at the Reformation the difference between the two Churches on this point was considered so slight and so capable of adjustment, that it was purposely left open. Our communion service was so framed as to admit the Roman Catholics, and they, accordingly, for the first twelve years of Elizabeth’s reign, partook of our communion, and there is nothing to prevent a conscientious Roman Catholic doing so at this day. The sacrament of the Lord’s Supper is, by all Christians, held to be a solemn rite of the Church, ordained by its Divine Founder as a commemoration of His sacrifice, and most efficacious to those who worthily receive it, with proper sentiments of gratitude and contrition; so far, all Christians agree, and we are on the grounds of Scripture and of common sense; but beyond this, the Roman Catholic is said to assert that the body of our Lord is actually present in the sacrifice. Now this, in the only sense in which I can affix a meaning to it, I must disbelieve. It is contrary to the evidence of my senses and to the first principles of my reason. But the Roman Catholic states that he does not believe the body of our Lord to be present in the Eucharist in the same sense in which it is said to be in heaven; for he admits that the same body cannot be in two places at the same time, but it is present in a sense; the Council of Lateran says sacramentally present. Now, what this sense is, I own, baffles my faculties. The proposition which states it I can neither affirm nor deny, because I cannot understand it any more than if it was laid down as a dogma that it was of a blue colour, or six feet high. I feel satisfied, as a sincere Christian, resting on Scripture and reason, that it is not necessary for me to involve myself in those mysteries; and of this I am sure, that I would act a very un-Christian part if I were to join in giving foul names to the professors of this, to me, incomprehensible dogma.”

[Mr. O’Connell, in reference to the foregoing, thus proceeds]:—

“Now, Catholics of Ireland, who, in spite of the ribaldry of Mr. Plunket, believe in the real presence, in that tenet of the

sweetest and tenderest charity, in that consolatory tenet which, thank God, is sanctioned, not only by the most clear and unequivocal texts, and repeated passages of the written Word, as well as by the authority of that Church, which, being founded on a rock, defies force as well as fraud, Mr. Plunket."

[Speaking of the new oath which Mr. Plunket introduced into his bill, Mr. O'Connell says] :—

"The priest must hold perpetual intercourse with persons acting under the authority of the See of Rome. If he takes this oath he must disclaim all communications with that see, and he will thereby cease to belong to the religion which has been clung to with affectionate tenacity through many an age of darkness and storm by the people of Ireland. Their priests never deserted the people, and the people will never forsake their priesthood. The present attempt will be as abortive as all the former assaults, and Mr. Plunket's new-fangled oath will be treated with quiet contempt by a patient, long-suffering, and insulted people.

[He then denounced both Mr. Plunket and his bill] :—

"I have long known that Mr. Plunket was a man of great and powerful ingenuity, but I did not think he had acuteness enough to frame so complete a snare for the Catholic religion. I still cannot give Mr. Plunket credit for the extreme fitness of his *infernal machine*, as the French would call it.

[Mr. O'Connell then analyses the several sections of the bill, which he says, on the authority of Cardinal Litta, would be rejected by the See of Rome. A Court of Control, composed of Catholics and Protestants, it was provided by the sixth section, should be constituted, whose duties were "to crush the Catholic Church in all its branches"] :—

"I therefore say, the Catholic clergy cannot possibly submit to the proposed board. Mr. Plunket, it is true, may make martyrs of them, but let him rest assured he will not be able to make traitors of them to their religion and to their God.

"There remains much of this abominable bill still to be considered. There remain all its details of the new *veto*. We never before heard, or had any, the slightest, information of a design to extend *the veto* to our deans. The merit of this extension is the exclusive property of Mr. Plunket. This out-heroding of Herod belongs to Mr. Plunket. Let him have the sole and exclusive honour of it, especially as he has invented it in his capacity of our advocate.

"Fellow-countrymen, I place great confidence in the sincerity of your attachment to the faith of the uninterrupted Church of Christ; but my great and most firm reliance is upon that

God who protected our fathers amidst the flames of persecution, and may He, in His mercy, guard their children from the true pestilence of *pretended friendship*.

“ I am, my beloved countrymen,
“ Your ever faithful and devoted Servant,

“ DANIEL O’CONNELL.”

The defeat of the “ Catholic bills ” was well received all over England, and for other and widely different reasons was also well received in Ireland. The struggle then ceased for a season ; for when it became known that the king was about to visit Ireland, it was resolved that all animosities should be laid aside, and that Catholics should not obtrude their grievances on their sovereign. A national festivity took place in Dublin, and from the vehement protestations on both sides, it was believed by many that a lasting reconciliation had been effected. Master Ellis, whose hatred of popery was of the deepest dye, and O’Connell, almost embraced each other. The king arrived, and was hailed with tumultuous applause wherever he passed, and in return for the enthusiastic reception which he had found, he directed Lord Sidmouth to write a letter, recommending it “ to the people *to be united*.” He shortly afterwards set sail, with tears in his eyes, from Kingstown. For a little while the Catholics continued under the miserable deception under which they had laboured during the royal sojourn ; but when they found that no intention existed to introduce a change of system into Ireland—that the king’s visit seemed an artifice, and Lord Sidmouth’s epistle meant nothing—they began to perceive that some course more effective than a loyal solicitude not to disturb the repose of His Majesty should be adopted.

At the close of the year 1821 the Marquis of Wellesley was sent over to Ireland as Lord Lieutenant, and Mr. Plunket immediately resumed his office of Attorney-General. His elevation was far from diminishing his zeal in the Catholic cause. Mr. O’Connell had a lengthened interview with him on this subject on the 16th of January, 1822.

“ I waited,” O’Connell writes, “ on Mr. Plunket to submit to him my ideas on the subject of Catholic emancipation. He received me with great kindness, and with the most perfect attention. I cannot speak too highly of the temper and disposition which Mr. Plunket evinced in the interviews I had with him.”

“ He has convinced me that he is desirous of carrying our emancipation, making as little sacrifices to English prejudices as he possibly can. I wish to be the more distinct in expressing my opinion of Mr. Plunket’s candour, that it may serve as a

REFUTATION of the sentiments which I formerly entertained and published on this topic.

"A communication has been opened between Mr. Plunket and the Catholic bishops. He is ready, I believe, to receive their sentiments with deference, and I am sure that he will respect their conscientious scruples. He perceives that their objections to the *veto* had nothing of faction in them, and that they are purely conscientious."

The irritation of the Catholic party throughout the United Kingdom subsided with the defeat of the bills in the House of Lords. That irritation was far from prejudicing the mind of Mr. Plunket, who still remained the advocate of the Catholics within the walls of the House of Commons, to which Mr. O'Connell was, of course, as yet inadmissible.

Early in the session of 1822 Mr. Canning introduced a bill for the admission of Catholic peers into the Upper House, and Mr. Plunket, then Attorney-General, supported that measure. He said, "that the cause of the exclusion of Catholic peers was not because they were dangerous counsellors, but because the House of Commons, in the reign of Charles II., suspected the king of being a Catholic, a fact which, though unknown at the time, was afterwards ascertained to be the case. The House dreaded a Catholic successor to the throne, but that cause had passed away, and the exclusion was now intolerable. The bill for their admission should have his warm, cordial, and unalterable support."

The failure of the harvest of 1821 caused deep distress in the following summer in Ireland. The Protestant clergy and the tithe proctors, who like locusts swarmed over the land, were denounced by the tithe payers. The tithes in this year of distress became an insupportable grievance, for while the Catholic tiller of the soil should pay the tenth part of the fruit of his husbandry towards the maintenance of a hostile Church, the Protestant grazier paid no tithes at all for his grass lands. Petitions, in consequence, poured in from all sides against such a state of things, and the people were resolved to resist the payment of an impost which was at once a drain on their pockets and an insult to their feelings. Mr. Plunket defended the Protestant Church and their clergy, who, by the opposition of the people, were reduced to the lowest ebb of distress. He respected their rights and privileges, and "no authority, not even their own, would induce him to compromise the rights of the Church."

Great powers, meanwhile, were entrusted to the Lord Lieutenant, the Marquis of Wellesley, by the Coercion Acts of this year (1822), but that nobleman has never been charged with unmercifully exercising those great powers. The dignitaries of

the Catholic Church were treated by his Excellency with marked respect; and the appointment of the Protestant champion of Catholic liberty to the high office of Attorney-General gave a lasting offence to the Orange ascendancy party, who were apprehensive that they should see extended in their day the benefits of a free and equal toleration to all the inhabitants of the empire.

This party were not slow in displaying the excess of their loyalty (?) by many an overt act. They had had the mortification of seeing omitted, by the command of the king, when he was entertained by the Corporation of Dublin in the preceding year, the insulting toast of the "glorious, pious, and immortal memory," and Lord Wellesley had aggrieved their poetic fancies by forcibly preventing the repetition, in 1822, of the offensive mummery of dressing King William's statue in College-green on the 12th of July. The Lord Lieutenant attended the theatre in state, such state visits being known to theatrical people by the name of "command nights." On this occasion an organised party of Orangemen, numbering nearly a hundred, packed the pit and upper gallery of the theatre, and having caused much interruption and disturbance throughout a portion of the performance, and having used the most offensive language—such as, "Down with the popish government," "A groan for the popish Lord Lieutenant"—they even went so far as to throw at his Excellency, who sat in the royal box, several heavy missiles, one of which, striking the cushion, rebounded to the stage. A heavy whiskey bottle was aimed in the same direction, and narrowly missed its object, from which circumstance this most disgraceful affair is still remembered in Dublin by the name of the Bottle riot. About a dozen of the ringleaders were apprehended, and several of them admitted their part in the transaction, and seemed to glory in their complicity. A very strong case was made out by the Crown against the accused, but the grand jury ignored all the bills, and Mr. Plunket felt himself compelled to file *ex officio* informations against James Forbes, W. Graham, G. Graham, M. Handbidge, H. Handbidge, and W. Brownlow, for a conspiracy to create a riot, and assault the Lord Lieutenant in the Theatre Royal; and a day was appointed for a trial at bar.

The case came on in the King's Bench on the 3rd of February, 1823, before the full Court, Charles Kendal Bushe Chief Justice, and his brethren Justices Jebb, Burton, and Vandeleur. The counsel for the Crown were the Attorney-General (Plunket), the Orange Solicitor-General (Joy), Serjeant Lefroy, Serjeant Torrens, Mr. Townsend, and Mr. Greene. The traversers were defended by an equally powerful and distinguished bar, amongst whom were—Mr. Blackburne (afterwards Lord Chancellor of Ireland), and Mr. Perrin (afterwards

one of the Judges of the Queen's Bench). The jury were then sworn: it was an unpacked jury; for Plunket had never, during the time he filled the office of Attorney-General, been known, whether prosecuting the Orangeman or the Catholic, to pack a jury. The information having been opened by Mr. Greene, Mr. Plunket stated the case with great courage and skill to a jury who would under no circumstances convict the accused. He opened his address by an explanation to the Court of how he exercised his discretion in filing an information against the traversers after the bills had been thrown out by the grand jury. He supplied them with a case in point, which was one in which a former Chancellor, Sir Constantine Phipps (99th Chancellor), was concerned.

"In the latter end of the reign of Queen Anne, in the year 1713, on King William's birthday, the play of *Tamerm lane* was to be represented. King William, as your lordships are aware, was compared to Tamerlane. A prologue to the play, written by Dr. Garth, was very generally repeated at the time. The doctor, it seems, was more happy as a poet than as a courtier; and his reverence for King William led him to compliment that monarch in terms not sufficiently guarded, and so as to give offence to Queen Anne. The government, in consequence, thought it right that the prologue should not be repeated. When the play, therefore, came on for representation, the actor omitted to repeat it, and by so doing gave great offence to the audience. They were full of respect for the memory of William, and did not wish that attention to Queen Anne should break in on the wonted practice. Mr. Dudley Moore, a zealous Protestant, who was in the house, leaped upon the stage, and repeated the prologue. This gave rise to something like a riot, for which the government indicted Mr. Moore. The bills were sent up to a grand jury, who returned a true bill, and were then discharged. In about half-an-hour after, the foreman came into Court, and made an affidavit that *billa vera* was a mistake, and that they meant to return *ignoramus*. The Court refused to receive his affidavit; but then came in the three-and-twenty, and swore to the same fact to which their foreman had deposed. The party was, notwithstanding this, in my opinion very unwisely, put to plead to the indictment. But the Attorney-General, thinking it would be hard to compel him to plead when the bill had been in fact ignored, moved to quash the indictment, which was done. Do I overstate the matter when I say, that things were then in the same situation as if the bill had been ignored by the grand jury? And yet, under these circumstances, the Attorney-General thought himself at liberty to file an *ex-officio* information against the same person for the same offence. Sir Constantine Phipps, who was then Lord Chan-

cellor, and one of the Lords Justices, was considered by many as a great tory and Jacobite, and as an enemy to the Protestant interest. History has done more justice to him in that respect than in the heat of party he received from his contemporaries. He interfered with the prosecution; he sent for the Lord Mayor, and lectured him as to the mode in which he was to conduct himself. He was even supposed to have interfered with the return of the jury. The whole matter was brought before the House of Commons, who addressed the throne to remove Sir Constantine Phipps for intermeddling in the trial. No fault was found with the information, though directly before them; but the trial was treated as legally depending, and a petition was presented against the Chancellor for interfering with that trial. Do I not here show a case in which an *ex-officio* information was filed after a bill had been thrown out, and where the zeal of party generated an anxiety to lay hold of anything that could warrant an imputation on the proceeding, as the information filed was never questioned, but the Chancellor and chief governor petitioned against for interfering with the proceeding?"

The Attorney-General, having passed a high eulogium on the character of William III., stated in effect that, although the religious feelings of the people of England entirely harmonised with those of that prince, and afterwards of the house of Brunswick, it was not until after a century that the hopes of those who still cling with affectionate remembrance to the descendants of their ancient line of sovereigns "were finally subdued. But in unhappy Ireland the exiled king was the professor and patron of the religion to which they were enthusiastically devoted. He must be a preposterous critic who will impute as a crime to that unhappy people that they did not rebel against their lawful king, because he was of their own religion, even if they had been so fully admitted to the blessings of the British constitution as to render them equally alive to the value of freedom. They seem, therefore, by the nature of things, to be almost necessarily thrown into a state of resistance; nothing could have saved them from it but so strong a love of abstract freedom as might subdue the principles of loyalty and the feelings of religion. No candid man can lay so heavily on poor human nature, nor fairly say, that he thinks worse of the Roman Catholic for having on that day abided by his lawful sovereign and his ancient faith. What was the result? They were conquered—conquered into freedom and happiness—a freedom and happiness to which the successful result of their ill-fated struggles would have been destructive."

Mr. Plunket then went into a statement of the riot; witnesses were produced; the facts above-mentioned were esta-

blished beyond all doubt; and yet, after six days consumed in useless debate, the jury were discharged without coming to any agreement.

Great umbrage was taken by the Orange party at the high-handed manner in which the Attorney-General had proceeded against the bottle-rioters. The matter was brought before the House of Commons by Mr. Brownlow, afterwards Lord Lurgan, and Plunket's defence of his conduct is thus commended by Lord Grenville:—

“DROPMORE, *April 17th, 1823.*

“MY DEAR SIR,—I cannot resist the desire I feel of expressing to you, in these few lines, the sincere and heartfelt pleasure I derive from your complete and decisive triumph, and not less from the sense how much you are indebted for it to your own brilliant exertions, and to the manly tone and temper of your speech.

“I still fear that the irritation of this subject is not at an end, either here or in Ireland, but a better beginning could not have been made than by the impression you have produced on the House.

“Ever, my dear Sir,

“Most truly and faithfully yours,

“GRENVILLE.”

Mr. Plunket, on being asked in this inquiry “whether he thought that a man's being an Orangeman would have been a sufficient objection to his serving on the panel,” replied: “In my mind, it would have been an objection. I should have thought that a return of a jury of Orangemen would have been a gross violation of propriety, and would have excluded any reasonable chance of justice being properly administered.”

The declaration of the Attorney-General was a subject of great disappointment to the Orange party, while it redoubled the confidence of the Catholics, who found that William Conyngham Plunket practised, when in office, the doctrines which he had previously enunciated. The Most Reverend Dr. Doyle, the once well-known Catholic Bishop of Kildare and Leighlin, presented, in 1823, an address to Mr. Plunket, signed by the Catholics of his lordship's diocese, expressing their and his admiration of their long-tried advocate, who, on the 30th of November, thus replied:—

“MOST REVEREND SIR.—I have had the honour of receiving your letter of the 21st, and the address of the people enclosed in it. I have read the address with the attention to which your name entitled it, and I cannot use terms too strong in expressing the

gratification which it has afforded me. The sentiments and style would do honour to a Fenelon or a Paley, and present a model worthy of being studied by all those who are desirous of uniting with a sincere devotion to their own religion that spirit of Christian charity, and good-will to others, without which religion is an idle name. I am very anxious that it should have an extensive circulation, not only in this country, but in Great Britain. It is valuable, not merely with reference to the salutary effect it must have on the minds of the wretched people who are involved in the lawless associations now subsisting, and hitherto spreading in Ireland, but, perhaps, still more as a means of making the public acquainted with the strain of liberal and enlightened piety which belongs to a prelate of the Roman Catholic Church. I trust, and indeed I have no doubt, that correspondent feelings are entertained by the great body of the Protestants of these countries, clergy and laity. With such aid, under God's providence, I look forward to the allaying, and at no distant period ending, the dissension by which this unfortunate country is disturbed, so far, at least, as religious animosities (most irreligious) have had any share in them.

"I beg you to accept my thanks for your kind expression with respect to the testimony which I have always publicly borne to the excellent conduct of the Roman Catholic clergy; I could not have withheld it without a violation of truth and duty.

"I have the honour, &c.,

"W. C. PLUNKET."

The government of Lord Liverpool, of which Mr. Plunket was now a member, was nominally of the high tory and anti-Catholic complexion. Lord Eldon held the Church of Rome in abhorrence; so did Lord Manners; and yet, with the unconquerable bigotry of those statesmen was associated the liberal zeal of Plunket and of Castlereagh. Never did a house divided against itself stand so long as that of the Earl of Liverpool. The Attorney-General Plunket speaks in favour of Catholic emancipation, while the Secretary of the Home Department speaks against it. The Foreign Secretary comes down to the House on crutches, to declare his solemn belief that England must do justice to her Catholic subjects; and the Irish Chief Secretary stamps these same Catholics as a rebellious horde.

The Catholic Association, founded in the same year, applied itself to the providing of separate Catholic denominational schools for the young. Mr. Plunket was opposed to the scheme, which, in his opinion, he writes to Doctor Doyle, on the 22nd

March, 1824—"tended to disunion and the perpetuation of hostile feelings, which every good man must wish to see abolished."

On the evening of the day that Mr. Plunket wrote this letter, he was in his place in the House of Commons, and took part in the debate on another question—the "Burials bill—Ireland." About this time a series of insults which were considered to be offered to the Catholic dead reached a climax, by the interruption offered by a Protestant clergyman to a Catholic priest, in St. Kevin's churchyard, when in the act of uttering a short prayer over the grave of Mr. Darcy, an opulent brewer, of Dublin. Dr. Magee, Protestant Archbishop of Dublin, had before this time issued a mandate, directed to his clergy, commanding them not to permit any popish priest to offer up a prayer over the grave of the dead. Catholic cemeteries had no existence at that time in the city of Dublin, and it was to remedy this evil that a bill was brought into parliament. Mr. Plunket supported the measure in a speech of great ability. He commenced with an exposition of the Act of William III., which forbade even the interment of the dead within the precincts of the ruined abbeys or the monasteries of the country.

"These venerable places," he said, "were looked upon with considerable respect, if not reverence, by all classes of people in Ireland. They had been founded from motives of piety, and though sometimes tenanted by superstition and bigotry, yet it could not be denied that they were often the abodes of genuine religion and pure charity. From them, in former times, the blessings of hospitality had been disseminated amongst the poor and the needy. Those places had long been taken out of the possession of the ecclesiastical proprietors, and vested in several members of the State. But they were still viewed by the people with feelings of respect and veneration. Though no longer used as places of religious worship, they were much resorted to as places of burial, not merely for the Roman Catholics of the country, but very frequently for the Protestants, and he felt that the remains of those ancient edifices were not the least interesting objects of contemplation to those persons who visited Ireland." He then proceeded to show that in those sacred places persons of different ranks and persuasions were buried in common, that "however they might have differed in life, in death they were suffered to repose together, and the place of their interment was not made a scene for the display of acrimonious feeling and unseemly asperity." As to separate grounds for Protestants and Catholics, he was entirely opposed to such a scheme. "The allotment of separate burial places would not only, like the giving separate places of education, tend to strengthen the line of demarcation already subsisting between the two religions, and to preclude for ever all hope of that union

in heart and political opinion which every sincere lover of Ireland must hope for, but it would go to outrage the most sacred feelings of humanity. It would have the effect, in many cases, of separating families as to their places of burial. A husband could not be buried with his wife, a brother near his brother, a father by the side of his son." The proposed Act was for the purpose of enabling the Catholic clergyman to perform the service over a member of his own flock in the Protestant churchyard.

The popularity which Mr. Plunket had long enjoyed was now somewhat dimmed: for he had supported the government in passing the Irish Insurrection Act, in 1823, and he was found, in 1824, to direct a prosecution against Mr. O'Connell, for delivering a seditious and inflammatory speech (known as the Bolivar speech) at the Catholic Association, where he extolled the valour of the Greeks, then struggling to shake off a foreign yoke, and thus eulogised Bolivar, the great liberator of the South American States:—"Countries have been driven mad by oppression. He hoped that Ireland would never be driven to the system pursued by the Greeks. He trusted in God they would never be so driven. He hoped Ireland would be restored to her rights; but if that day should arrive, if she should be driven mad by persecution, he wished that a new Bolivar might arise, and that the spirit of the Greeks and of the South Americans might animate the people of Ireland."

Bills were sent up to the grand jury of the city of Dublin, but the evidence being insufficient to support the indictment they were thrown out, and the prosecution fell to the ground. The conduct of the Attorney-General on that occasion excited the anger of Richard Lalor Sheil, who thus in terms of indignation exclaimed: "Good God! what motive could have suggested that extravagant proceeding? When Mr. Plunket read the words attributed to Mr. O'Connell, did he ask himself, 'What is the provocation given to this man? Who is he, and what am I? Who is His Majesty's Attorney-General, the Right Honourable William Conyngham Plunket?' I know not whether he administered that personal interrogatory to himself; but if he did, this should have been his answer; . . . 'I am Attorney-General for Ireland. I possess great wealth, great powers, great dignity, and great patronage. If I had been a Roman Catholic, instead of being an enfranchised Presbyterian, what should I have been?' I can tell him. He would have carried up and down a discontented and repining spirit; he would have felt like a man with large limbs who could not stand erect; his vast faculties would have been cribbed and cabined. And how would he have borne his political degradation? Look at him, and say would that lofty forehead have borne the brand of popery? How would that high demeanour have worn the stoop of the

slave? Would he have been tame, and abject, and servile, and sycophantic? No! he would have been the chief demagogue—the most angry, tumultuous, and virulent tribune of the people. He would have superadded the most honest gall of his own nature to the bitterness of political resentment. He would have given utterance to ardent feelings in burning words, and in all the forms of passion. He would have gnawed the chain he could not break. And is this the man who prosecutes for words? If (to use a vulgar phrase) the tables were turned—if Mr. O'Connell were Attorney-General, and Mr. Plunket leader of the people, how would the public mind have been inflamed, what exciting matter would have been flung among the people—what lava poured out! The very stones would rise in mutiny—would to Heaven that not only Mr. Plunket, but every other Protestant who deplores our imprudence, in the spirit of a fastidious patronage, would adopt the simple test of nature, and make our case his own; William C. Plunket, if similarly situated, would give vent to his emotions in phrases as exasperated, and participate in the feelings which agitate the great and disenfranchised community to which it was his misfortune to belong. There is no man of ordinary candour who would not rather intimate his wonder at the moderation, than his surprise at the imputed violence of O'Connell. With fortune, rank, and abilities of the first class, enjoying preeminence in his profession, and the confidence of the country, he is shut out from honours accessible to persons whom nature intended to place infinitely behind, and whom their religion has advanced before him.”

The Bolivar case was followed by another, which tended still further to lower the popularity of the Attorney-General. An Act was introduced into parliament by Mr. Goulburn, Chief Secretary for Ireland, for the suppression of the Catholic Association, and Plunket was found amongst its supporters, though he still continued to advocate with unshaken fervour the cause of Catholic emancipation, which it was now determined to grant, but accompanied by another Act, which was to disfranchise the forty-shilling freeholders. “Whilst he denounced the intemperate language of the Association, he admitted that he was a sincere and zealous friend of the Catholics; he would advise them to leave off the high tone which they had long used. It was said that the Association spoke the sentiments of the Irish people. So they did—so did he (Mr. Plunket), and so would every man who advocated the cause of emancipation. But, beyond that, the Association did not represent the feelings of the country; and he most positively denied that the people of Ireland would think of resenting the abolition of that Association. The clergy and the country gentlemen were beginning to get tired of seeing

their just influence with the people taken from them by this body, and must naturally be favourable to any measure by which it would be restored. Even the members of the Association itself would acquiesce quietly in the law which would put an end to their power. Very many of them were sensible and clever men, and must be aware of the inutility of opposition to the will of the legislature. The gentleman who was the most prominent member of that body—Mr. O'Connell—would himself be of this opinion. Mr. O'Connell was a man of great talents and acquirements. He filled the highest rank at the bar which the laws permit a gentleman of his religion to occupy ; and was deservedly considered as a man of eminence in his profession. He only knew him professionally ; but he had reason to believe him to be most amiable in all the relations of private life. In his political sentiments, he looked upon him as wild and extravagant ; but, nevertheless, he was persuaded that if this bill passed, neither he, nor Lord Fingal, nor Lord Gorminstown, nor any other gentleman connected with the Association, would ever descend to any pettyfogging tricks to evade its operation. He believed that the great body of the people of the country would gladly seize the passing of the proposed bill as a favourable opportunity for getting rid of the influence of that body."

The debate was one of the ablest that had taken place upon the Catholic question, and was particularly distinguished by a masterly statement by Mr. Canning as to his own policy, and that of the various Cabinets in which he had acted, towards the Catholics. Brougham, who followed him, contrasted the language of Plunket's anti-Union speeches with the violent debates of the Association—a home-thrust which the latter did not attempt to parry. Leave was given to introduce the bill, by a majority of 155, and it passed in the course of the month, unaccompanied, however, by any measures of relief, at which great indignation was felt in Ireland, until O'Connell "drove a coach and six" through the Act, and formed the new Catholic Association, "for purposes of public and private charity, and such other purposes as are not prohibited by the statute." When the Attorney-General returned to Ireland, he found his popularity blighted, and the Association there before him, quite impregnable to indictment, and, if possible, more powerful than before.

And Mr. O'Connell had, to use his own expression, "driven a coach and six" through Mr. Goulburn's bill for the suppression of the Catholic Association. A new Association was formed, the programme of which, sketched by Richard Lalor Sheil, was, in effect, that a census of the Catholics of Ireland should be taken, that aggregate meetings should be held in all

the parish chapels of the kingdom, and a ceaseless agitation kept up until the emancipation should become the law of the land.

The Association continued its operations and extended its organisation with even greater vigour and success than before. Its machinery extended not only into every county, but into every parish. Its funds were given to employ lawyers to protect the people in cases of extreme oppression, and in such cases as the wrecking of a chapel, or an Orange riot in the north. The magistrates were sometimes thunderstruck by the apparition of able barristers from Dublin, who were attended by newspaper reporters, sure to publish abroad any too outrageous instance of magisterial partisanship.

On the day after the third reading of the bill for the suppression of the Catholic Association, Sir F. Burdett presented the petition for emancipation. The government were divided in the debate—Canning for, Peel and the English Solicitor-General against the motion, while the Irish Attorney-General delivered a speech pronounced by Lord Brougham as the greatest of all his efforts at which he had been present. "It contains," writes his grandson, "a luminous and complete historic summary of the Established Church, in its relations to the other religious bodies of the three kingdoms." Plunket had long been the leader of the Catholic cause in the House of Commons; that leadership had now passed into other hands. "But it was yet his decided and unalterable conviction that this measure could not be too speedily carried. No time was too early for its adoption. The opponents of the Catholic claims were amongst the best friends of the Established Church. But he solemnly assured the House that though the measure was as dear to him as it could be to any man, if he thought it could risk in any degree the security of the Church of Ireland, instead of being its advocate he should be found among the foremost ranks of its warmest opponents." . . . "The claim of the Roman Catholics was a claim to be admitted members of a free representative government and to be admitted to institutions the advantages of which belonged to every subject of that government. He did not say that the right would admit of no exception or control. There was nothing in the social fabric concerning which he would venture to make that assertion. Even the enjoyment of natural right must be qualified in a state of society with conditions. He directed the attention of the House to the circumstances under which our ancestors had thought it necessary to limit those rights, in a very peculiar manner, with respect to Roman Catholics. At the Reformation it was found necessary to deal with those rights which were fully permitted before that period. The main object then was

to protect the rights of the throne against the claims of a foreign power, and against the disaffection of those subjects who might reserve their allegiance for that foreign power, to the detriment of the throne, and of the State in general. This being the object, how did they proceed? They guarded, in the first place, against the evils existing. There were the claims of the Pope to interfere with the interest, not simply of the Roman Catholic religion, which then was the established religion of the State, but he claimed also the right of disposing of benefices, of naming the clergy, of deposing the monarch, and of absolving the people from their allegiance. The legislature accordingly provided—first, for the absolute and unconditional integrity and inviolability of the Church; further, for the spiritual prerogative of the Crown, forbidding, at the same time, the exercise of any other than the established religion. What were the mischiefs dreaded, and what the provisions of the legislature? To prevent the claims of the Pope, or any other foreign power, to interfere with the Church. Did they hear of any claim to that interference, or to the right of deposing kings, or absolving their subjects from their allegiance? Was that believed or asserted by any man in either kingdom? Dangers there were still; but of a different kind. Those enactments were, therefore, gradually done away. The law forbidding the exercise of any other religion was done away by the repeal of the Act against recusancy. The only remaining one which could be at all supposed to contain that spirit was the Act of Uniformity; which could not be affected by the proposed measure. The wisdom of our ancestors watched the progress of time, and took their measures accordingly. In the reign of Charles the Second they observed a new danger—a monarch careless about religion, or secretly affected to an unconstitutional one, who was to be followed by a popish successor. Here their providence was as remarkable as before. They provided a remedy, not adapted entirely to the evil, but the one they could obtain; which was to require certain oaths to be taken by those who were ready to take seats in parliament. That was found insufficient on the accession of James the Second, who openly maintained the Roman Catholic religion against the constitution and the rights of his people. The legislature, finding this resource fail, then prudently shifted their ground, and had recourse to a measure at once wise, bold, and salutary. They drove the monarch from the throne for violating the constitution, and they resolved that the sovereign power should be held inviolable and unalterable in Protestant hands. Did he deny that the throne must be Protestant? Was he doing anything to weaken its Protestant supremacy? No such thing. Was there any mode or device to make that supremacy surer, which the genius of

any man could suggest? He was ready to incorporate it with the proposed bill, or to have it introduced as a separate, yet concomitant measure. What were the dangers which afterwards threatened the Establishment? The claims of an exiled family driven from the throne, and the plots and agitations of a disaffected party retained in its interests. He admitted, freely, that the Roman Catholics of that period were suspected justly. What was the course taken by parliament? All the former measures against the papists were continued. They were held to be not good subjects, and were to be trusted neither with honour nor power in the State. They were coerced in their persons and property—they were deprived of their civil rights—they became sunk and degraded into that wretched state from which they were relieved by the benignity of the last reign. This was a natural course of reasoning, though he did not conceive it to be a wise one; but it showed that our ancestors adapted their remedies to the evils then existing, and pressing upon their apprehension.

“In 1791 a new danger and an entirely new difficulty presented themselves. The Roman Catholics had proved themselves truly submissive—they had been uniform in their peaceful conduct. Though rebellion had twice raged in Scotland, no movement was made in Ireland in favour of the exiled family. It had been found that the Catholics, so sunk and degraded, were ineffectual to the protection of the government—that by the depression and privations imposed upon them, the heart's blood of the State was impoverished.

“It has been said, the Roman Catholics might have their civil rights; they must not, however, expect political power; that the constitution prohibited. Was there nothing of political power in what they possessed? They had the right of electing members to serve in parliament. Was that no exercise of political power? They acted as magistrates. Was that no exercise of political power? They served as jurors. Was that not exercising political power? This country had liberally imparted education to them. Did not that put the means of political power within their reach? Where was this line of distinction between civil and political power marked in the constitution? The warmth of discussion apart, he denounced the doctrine as inconsistent with the principles of our free constitution, and only fitted for the meridian of a despotic government. He had once endeavoured to define civil liberty to the House; he had used the description which he found in the books—‘Civil liberty consists in doing all that which the law allows a man to do.’ But he went beyond that. There is a civil liberty the enjoyment of which is given by the laws themselves. Once admit men to enjoy property, personal rights, and their usual

consequences, and on what pretence could they be excluded from the institutions by which the whole of those possessions must be guarded?

"It was asked, what have the Roman Catholics to complain of? they are only excluded from the parliament, the bench, and the high offices of State; which meant that they were only excluded from the making and administering of the laws, from all posts of honour and dignity in the State. These were bagatelles for which, according to the argument, it was not worth while for the Catholics to contend—and, therefore, it was scarcely worth the while of the parliament to refuse. How would the honourable and learned gentlemen who used this argument like to be excluded from their chance of obtaining these trifles? He begged to ask if these were not the very nothings for which Englishmen would cheerfully lay down their lives?"

Mr. Plunket then answered, one by one, the several and well-known objections that had been raised against the admissibility of Roman Catholics to parliament. Canning had come down to the House from a sick bed, and on a crutch, to give his support to the motion. The opposition could afford to look on and allow the government to fight the question out, for Peel took upon himself the task of replying to both his illustrious colleagues. Brougham closed the debate, and the motion was carried by a majority of thirteen. Resolutions upon which to base a bill were instantly assented to, and a committee formed to prepare the same. It passed the Commons, but was lost on the second reading in the Lords.

The Catholic Association had at the general election of 1826 its agents in every county in Ireland; and it was in vain that the Protestant proprietors struggled to maintain their nominees in their former strongholds. Thus the Beresfords were defeated in the south, and Lord Roden in the north. The new parliament met in February, 1827, and in the same month the tory premier, the Earl of Liverpool, who had held office since the 8th of June, 1812, died. By his death one great obstacle to emancipation was removed. On the 10th of April Mr. Canning succeeded to his place, and immediately the anti-Catholic portion of the ministry, the foremost amongst whom was Lord Eldon, resigned. Without holding out to the Catholics any very decided promise of emancipation, Mr. Canning was yet known to entertain views favourable to a settlement of their claims. He had himself, a very few years previously, introduced a bill to enable Catholic peers to sit in the House of Lords; and his devotion to the Catholic cause was the ground upon which he had been deserted by his former colleagues. Mr. Plunket, it was expected, as a matter of course, would have been appointed Lord Chancellor of Ireland; but so strong were the anti-Catholic feelings

of his Majesty that he declined to sanction the appointment of one who had so long been the champion of the Roman Catholic party. Lord Manners, therefore, at the urgent request of the king, continued in office until one whose tastes foreign alike from politics and from religion could be found. Sir Anthony Hart was that man, and Mr. Plunket was passed over. He was, however, appointed Master of the Rolls in England; but the English bar signified their determination not to permit any other than a member of their body to occupy a judicial place on the English bench. Lord Norbury then resigned, and the Attorney-General was appointed, in his stead, Chief Justice of the Common Pleas, and at the same time was raised to the peerage, by the title of Baron Plunket of Newton, in the county of Cork. In a letter dated the 24th of April, 1827, he intimated to the Provost of Trinity College that the long connexion that had "subsisted between him and the University of Dublin was about to be dissolved."

And now that we have reached the term of his labours at the bar, let us speak of the extraordinary eloquence that he displayed there. The beautiful imagery of his fancy threw a charm over every case, however dull, in which he was counsel. One would have thought that the right to the presentation of a living involved nothing of poetry, nothing to enlist the feelings, nothing beyond a question of title, of lost deeds, of presumption of grants—but Plunket was in that dull case! His client, the defendant, and the ancestors of his client, had exercised the right of presentation to a living for two hundred and fifty years. The plaintiff called upon him to prove his title; but the defendant had lost his deed of grant, of which there was no memorial, and Mr. Plunket contended that the court must presume a lost grant. "If this rule of law," he said, "be set aside there would be no security for properties of an ancient tenure. Time is the great destroyer of evidence, but he is also the great protector of titles. If he comes with a scythe in one hand to mow down the muniments of our possessions, he holds an hour-glass in the other, from which he incessantly metes out the portions of duration that are to render those muniments no longer necessary." How exquisitely beautiful is this metaphor!

The elevation of Mr. Plunket to the peerage and the bench was well received by the Catholic party of the empire. Emancipation was plainly now but a question of time, though it was again postponed by the death of Mr. Canning in the summer of the same year. Lord Goderich, unequal to the task, then assumed the responsibilities of premier, and was displaced on the 26th of January, 1828, by the Duke of Wellington, who had before that time been hostile to Catholic emancipation. But the whole country was now disturbed; the Catholics, led on by O'Connell,

met in mighty masses demanding liberty ; and petitions, signed with 800,000 signatures, were presented at the bar of the House of Commons. That emancipation must become the law of the land was admitted by the Duke of Wellington in the House of Lords, and by Sir Robert Peel in the House of Commons. It is unnecessary here to enter into details of a history which is familiar to everyone ; for who is ignorant of the intense excitement, of the danger of civil war, of the determination of the people, and of the Clare election ? It is sufficient for us to say, that as Mr. Plunket, in the lower House, had been the advocate of the measure, so, now that he was elevated to the peerage and the bench, he maintained the honourable consistency of his character, and showed the world that what he spoke was the outpourings of a heart that knew no falsehood. "The opposition of the Protestants of Ireland," he said, "was not caused by a religious panic or any apprehension for the safety of the Protestant Establishment, as in this country ; nor again, from a sordid desire of monopoly, which I do not believe exists to any considerable extent in either country. No, my lords, the feeling which, I frankly own, bursts spontaneously from the hearts of the great body of the lower class of Protestants and Protestant Dissenters, especially in the North of Ireland, is that of resentment at being deprived of the enjoyment of a sense of superiority, which has been bred by the law, and in which they have indulged for more than a century ; the right of putting out their hand and pushing back their equals in their progress to an honourable station in society—a privilege from which they derive no substantial benefit, no advantage other than the luxury of insulting and degrading their fellow-citizens. My lords, it is this perpetual consciousness of legal superiority which elevates the brow of the Protestant, and corrodes the heart and breaks down till it rouses to fury the elastic spirit of his Roman Catholic neighbour. My lords, in the higher classes of society, this feeling is corrected by courtesy and by those habits which belong to rank and to education. In this House (although I think I have heard the topic of idolatry pushed rather beyond its due limit), the exclusion is justified on principles of State policy. It is said, 'You are very worthy and honourable people, we respect you very much ; but we are sorry that there are political reasons which require the continuance of your exclusion from the State.' But in Ireland, my lords, and amongst the classes which compose the great body of the persons who exult in their legal superiority, the language is more offensive than even the exclusion. 'You are an idolater—you are not to be believed on your oath—your religion is odious, and corrupt, and un-Christian. What claim can *you* have to be associated with us in the exercise of the privileges of freemen ?' 'What!' says the Protest-

ant shopkeeper, 'shall I think myself safe, or fairly dealt with, if a Roman Catholic judge has any share in the administration of the laws by which I am to be governed?' What must the Roman Catholic gentleman feel, on the other hand? 'Am I fairly dealt with, and am I to feel thankful when the law by which I am to be governed is administered *exclusively* by Protestants?' It is not that they are not well and fairly administered, but the claim and the principle are founded in folly and insolence, and it is not in human nature that this daily and hourly claim of unmeaning superiority can be patiently endured . . ."

The Emancipation bill passed, and another generation enjoys the fruits of the toils of those mighty men of old—of O'Connell, of Plunket, of Grattan, of Curran. Their bodies are long since entombed in the sepulchres of mortality, but their names, like their spirits, are immortal!

"Their spirits wrap the dusky mountain,
 Their memory sparkles o'er the fountain,
 The meanest rill, the mightiest river,
 Rolls mingling with their fame for ever."

Meanwhile the agitation for a reform in parliament went on with increasing strength, and the ministry of the Duke of Wellington was forced to retire.

The whigs came into office at the close of the year 1830, under the premiership of Earl Grey, and Lord Plunket was promoted to the Irish woolsack. A reform bill was introduced by Lord John Russell in the early session of 1831, and Lord Plunket spoke in its favour, and in doing so dwelt on the unreformed Parliament of Ireland, over which the Irish people had little control. "Much," he said, "had been done by the Union, but much remained to be done, which the Reform Act alone could accomplish." Lord Plunket then told how great had been his early hostility to the Union of Great Britain and Ireland, but now that that Union was an accomplished fact, he "would resist its repeal to the last moment of his existence." Lord Eldon, in his eighty-second year, re-appeared in the House: he told the peers "that he came from the verge of the grave to warn them, and to entreat of them to reject the Reform bill." His voice prevailed; the measure was rejected in the House of Lords; but in the following year it became the law of the land.

The year 1832 was also remarkable in Ireland for the agitation against the payment of tithes to the Protestant Church. The king, in his speech from the throne, recommended the attention of parliament to this subject, and a committee of the House of Peers was appointed to investigate and report upon it. On that committee were the Archbishops of

Canterbury and Armagh, the Bishops of London and Killaloe, the Duke of Wellington, Lord Plunket, and several other peers. After a searching examination of many witnesses, amongst whom was Dr. Doyle, the committee (all Protestants) made their report, recommending the commutation of the tithes to a charge upon the land, but in no way suggesting the abolition of the Establishment. In the debate on the reception of this report, it was stated that the Protestant clergy of the south of Ireland were reduced to a state of the most abject want. A bill was, in consequence, introduced into parliament, authorising an issue from the consolidated fund of a large sum of money, to relieve those who were unable to collect their tithes, in consequence of the opposition of the people. Lord Plunket was in favour of the grant, which, in unmeasured terms, was opposed by O'Connell. Lord Plunket supported the Church; O'Connell denounced it. Lord Plunket now supported the "Union," which O'Connell was labouring to dissolve. But both had been advocates of Catholic emancipation, and both spoke and voted for the reform bill, and both, whether allies or antagonists, were ornaments of their common profession and of their common country. Lord Plunket was not the man to leave unrecognised the merits of his great fellow-countryman, and observing that, by the rules of professional precedence, Mr. O'Connell, who continued at the outer bar, was obliged to act as junior to those who, though called within the bar, were yet his juniors in intellect and in reputation, resolved to remedy so great an injustice, and granted, in the same year in which he himself became Chancellor, a patent of precedence to the great tribune of the people. This grant Lord Roden, in the next session of parliament (23rd February, 1832), brought under the consideration of the House of Lords. That noble lord was at once the leader and the agitator of the Orangemen of the north of Ireland. The Lord Chancellor admitted that he had affixed "the Great Seal to the patent of precedence to Mr. O'Connell. He did not stand up there as his advocate, nor the advocate of the agitators of either side; but he might observe, that that proceeding was totally unconnected with any question of politics, and that the patent of precedence was given to Mr. O'Connell only on account of his professional eminence. The granting a patent of precedence in Ireland was to enable the man to whom it was granted to rank next after the king's Attorney and Solicitor-General. That, however, had not been done for Mr. O'Connell. He had only been named to take rank above those gentlemen, much his juniors, whom he had seen promoted over his head. Whatever he might think of Mr. O'Connell in a political point of view, it was impossible to deny that, in his profession, no individual exhibited higher attain-

ments, nor was any man more worthy of the distinction he had received. That being the case, the government was bound to accord him the distinction. It was the object of a rational government not to be vindictive, but just, and the gift of the patent of precedence was required by justice. He should have been happy if, by that mark of kindness, not incompatible with their duty, Mr. O'Connell had been induced to betake himself to his profession, in which he was entitled to expect the highest honours, but he could not regret what had been done. The noble earl opposite (Earl Roden) had expressed his disgust at the conduct of agitators. They were to be condemned, undoubtedly; but if he was asked, who was the greatest agitator, he should say, that it was the person who collected together large mobs of ignorant persons—who addressed them in a manner calculated to raise their jealousies, and revive their prejudices—who addressed English people, and called on them to form Protestant Associations—telling them that he loved the Catholics as men, but that they were a set of people who wished to put down the Protestants and their religion. Such a person was the true agitator. Such a person, who thus collected these ignorant assemblages together, and scattered among them ambiguous—no, not ambiguous, but unfounded assertions—such a person risked the making of Irish agitation not only formidable, but desperate. To accomplish that fearful object in Ireland all was wanted was—not a war against the State—not a war against the tithes—but a war between the Protestants and Catholics.”

On the 26th of December, 1834, a change of ministry took place, Lord Melbourne retired, and Sir Robert Peel became Prime Minister, with Sir Edward Sugden Lord High Chancellor of Ireland, an appointment thus denounced by Mr. O'Connell:—

“He admitted that he was an able lawyer and an able advocate, but were there none such to be found at the Irish bar? He (Mr. O'Connell) reviewed the past history of the Irish bar, and described the genius and eloquence of Hussey Burgh, Yelverton, and Curran, and lauded Messrs. Holmes, Perrin, and Pigot, as men of the first abilities and learning of the present day. He deplored the bigotry which prevented men looking to the honour of their country, instead of being influenced by party spleen and bigotry, and treated the appointment of Sir Edward Sugden as an insult and gross injustice to the Irish bar. But this (he said) had ever been the spirit of domination pursued by the tories towards this country, and he instanced the appointments of Lords Redesdale and Manners, and Sir Anthony Hart and Sir Edward Sugden, all appointed by tory administrations. Ponsonby and Lord Plunket were Irishmen, and they had been appointed by whigs.”

The tory administration was short-lived. On the 17th of

March following, Lord John Russell moved, "That the House do resolve itself into a committee of the whole House, to consider the temporalities of the Church of Ireland, with a view of applying any surplus of the revenues not required for the spiritual care of its members to the general education of all classes of the people, without distinction of religious persuasion." The ministry resisted the motion; a debate ensued, which was kept up with great vigour for four nights, and was brought to a conclusion on the 7th of April, when a division took place, and there appeared 322 for the motion, and 289 against it, leaving ministers in a minority of 33. Sir Robert Peel resigned, and was succeeded by the whig administration of Lord Melbourne. Sir Edward Sugden's term of office was of course equally short, and Lord Plunket resumed his place as Lord Chancellor of Ireland.

The death, in 1839, of the Honourable and Most Reverend Power Le Poer Trench, last Protestant Archbishop of Tuam, left at the disposal of the Crown one of the richest prizes in the Established Church. Previous to the Church Temporalities Act the gross annual revenue of that archdiocese amounted to £8200 a-year. Shorn, however, by this Act, which abolished the archbishopric, the future bishops were still to enjoy an income of £4600 a-year. This bishopric, with its enormous Church patronage, was conferred by Lord Ebrington, then Lord Lieutenant of Ireland, on the Honourable and Reverend Thomas Plunket, eldest son of the Chancellor. To the government of Lord Melbourne his lordship was indebted for the appointment of another son to be Vicar of Bray. He had two sons at the bar, one of whom was an Assistant-barrister, and the other a Commissioner of Bankruptcy. His lordship was therefore under many obligations to the government—obligations of which Lord Melbourne found it convenient and necessary soon to avail himself. Sir John Campbell had been then for five years Attorney-General for England, and was still without any prospect of immediate promotion. Lord Melbourne had been under delicate obligations to him, but there seemed every probability that the imminent break-up of the cabinet would leave him unprovided for. In this emergency Lord Melbourne, on the 15th of October, 1840, communicated with Lord Ebrington, suggesting that Lord Plunket should be induced to resign the Seals, for the purpose of appointing Sir John Campbell in his place. A correspondence ensued on the subject, and on the 7th of June, 1841, the Chancellor wrote to Lord Melbourne, "that it would be repugnant to his feelings to resign." Finally, Lord Ebrington, seeing that all persuasion was in vain, begged of him, as a personal favour, to acquiesce. This was sufficient; and on Saturday, the 22nd of June, he placed his resignation

in the hands of the Crown. On the Monday following, his lordship, accompanied by Sir Michael O'Loughlen, Master of the Rolls, entered the Court of Chancery. The list was called over, and when disposed of, Serjeant Greene rose, and amid breathless silence, in a Court thronged to suffocation, said :—

“ I presume, my lord, it is not your lordship's intention to sit again in this Court ; I therefore rise, as the senior in rank of the members of the bar now present, and with full concurrence of the brethren of my profession (here all the members of the bar present rose simultaneously), to address to your lordship a few words before your retirement from that bench over which your lordship has for many years presided.” (Lord Plunket rose from his seat, and advanced to the front of the Bench.) The learned Serjeant proceeded—“ My lord, we are anxious to express to your lordship the deep sense we entertain, not only of the ability, the learning, the patience, and the assiduity which have marked your lordship's administration of the high and important functions committed to your lordship's charge, but also, my lord, of the courtesy, kindness, and attention which we have all personally experienced at your lordship's hands, in the discharge of our professional duties in this Court. We gratefully acknowledge, my lord, the disposition you have ever shown to accommodate us all—a disposition by which, we all admit, your lordship was ever actuated, without regard to personal circumstances, or to our political feelings or predilections ; we trust, my lord, it will be said that this feeling, on our part, will be as general and as universal as the kindness on your part has been uniform and uninterrupted. My lord, it is needless for us to dwell here, for the purpose of commenting, upon the talents and the endowments which have raised your lordship to the high position from which you are now about to retire. They are, my lord, recorded in our history ; and they will long live among the proudest recollections of our countrymen. From a sense of these we offer to you our present tribute of the profoundest admiration and respect ; and, my lord, it is gratifying for us to add, that at no period of your lordship's career have they ever shown in greater lustre than at this moment. My lord, with warmest wishes for your lordship's happiness in that retirement which none is more fitted than your lordship to adorn, we respectfully bid your lordship farewell.”

Mr. Goddard, on the part of the solicitors, then expressed the kindly feelings entertained by the solicitors of the Court towards his lordship. He fully concurred in what had been said by Serjeant Greene, and concluded by wishing his lordship long life and happiness.

The Lord Chancellor, after a moment's pause, said: "It would be great affectation on my part if I were to say that I do not feel to a considerable degree pained at the prospect of retiring from a profession at which I have, for more than a period of fifty years, been actively engaged—a period during which I have been surrounded by friends, many of them warm ones—many of them are now no more—some of them, nay, many of them, I see at this moment around me. This retirement from the active scenes in which I have been so long engaged, and which have become as it were incorporated with my life, I cannot help feeling, and feeling deeply. It has, however, been alleviated by the prospect of that repose which is probably better suited to this period of my life, and which, perhaps, would have earlier induced me to retire, but for events of a particular description, which have latterly occurred. But independent of this, I must say, that any pain I would have felt has been more than alleviated by the kind and affectionate address which has been offered to me by my friend Serjeant Greene, and which has been so cordially assented to by the members of both professions. I am not unconscious that in the discharge of those duties, my ability for which has been so overrated by my friend Serjeant Greene, I have been led into expressions of impatience which had been much better avoided. For any pain that I have given in doing so, or any feelings that I have hurt, I sincerely apologise, and I am grateful to the profession for not having attributed to inclination any such observations; and I must say that, whatever any such observations may have been, they never have influenced me. It is a sentiment that I trust never will influence me; and I am now able to say, that, in retiring from my profession, I do not carry with me any other sentiment than that of affectionate consideration for all and every member of the profession.

"Now, with respect to the particular circumstances which have occurred, and the particular succession which is to take place in this Court, it will become me to say very little. For the individual who is to occupy the situation I now fill, I entertain the highest political and personal respect—no one can feel it more so. But I owe it as a duty to myself, and the members of the bar, to state, that for the changes which are to take place, I am not in the slightest degree answerable; I have no share in them; and have neither directly nor indirectly given them my sanction. In yielding my assent to the proposition which has been made for my retiring, I have been governed solely by its having been requested, as a personal favour, by a person to whom I owe so much, that a feeling of gratitude would have rendered it morally impossible that I could have done otherwise than to resign. When I look at the bar before me, and especially at the number of those who might have sat

officially in this judicial place, I am bound to say, that for all those great ingredients which are calculated to enable them to shine as practitioners and members of the bar, or as gentlemen, for candour, for courtesy, knowledge, and ability, I challenge competition—I challenge the very distinguished bars of either England or Scotland, and I do not fear that those I have the honour of addressing would suffer in the comparison. To them, for their repeated kindness, I am deeply indebted. I do assure them, when I retire into quiet life, I will cherish in my heart the affectionate kindness and attention I have experienced at their hands.”

During the delivery of this speech his lordship frequently paused, and appeared deeply affected, and the most still and breathless silence pervaded the entire Court.

Lord Plunket then left the bench, from which he was thus compelled to retire—compelled, not by his political enemies, but by his political friends, and against the sense of the profession. He was thrust aside in his old age, after he had done the greatest service to that party to the interests of which his talents were devoted. On the next day he held a farewell levee of the bar at his house, No. 18, Stephen's-green, North. The attendance was numerous, all the barristers wearing wigs, gowns and bands. He then withdrew from public life, and spent much time on the Continent of Europe. At Rome, he found amongst the monuments of five-and-twenty centuries much to amuse a mind rich in classical learning. In 1843 he returned to his place at Old Connaught, in the county of Wicklow; but there was no occupation for his active mind, and the dotage of old age came slowly but surely upon him. By degrees he sank into his second childhood, and so remained until the 5th of January, 1854, when death came with a merciful release. His resting-place in Mount Jerome cemetery is marked by a heavy granite tomb; and a life-like statue of this great Irishman has been placed in the hall of the Four Courts, upon a block of polished Sienna marble, with this inscription, “Erected by the bar of Ireland.” If Plunket had no other claims on the national gratitude than his inflexible and untiring devotion to the Catholic cause, no monument could be too costly to commemorate the value and the extent of his services. O'Connell was wont to declare that Plunket's wonderful reasoning had softened or subdued prejudices which stood proof against all antecedent efforts. But, apart from his devotion to the Catholic cause, the eloquence, the genius of Plunket, have won for him a place amongst the greatest of the great men of Ireland; and in the closing hour of his political life he might well have applied to himself, as he looked back on his career, the language of the Roman:—

“Exegi monumentum aere perennius.”

112. A. D. 1835.—LORD ST. LEONARDS. Edward Burtenshaw Sugden, born in 1781, was the second son of Richard Sugden, who was by trade a barber. From his earliest years he displayed a genius that endeared his youth to all that knew him. His father loved him and allowed him the best pony that could be purchased at Quatterman's repository, in St. Martin's Lane, London. Little Sugden soon acquired a taste for horses, which even in the turmoil of active life never deserted him. He was perpetually, when a boy, looking after the most tiny animals, which his father willingly purchased for him. Now, it so happened that, frequenting the same repository, and on a like business, was a Mr. Duval, an eminent conveyancer, well known to the Chancery bar, who, meeting the young lad, was so struck with the brilliancy of his genius, that he readily employed him in his office.

Each succeeding month convinced Duval, more and more, that the young man was highly gifted, and he was accordingly persuaded to enter his name as a law student in Lincoln's Inn. By the rules of the Benchers of that Inn, it is incumbent on every student to disclose his antecedents, and to tell, amongst other things, his own employment, and whether he had ever filled the office of clerk to a conveyancer. Now by the rules of the Benchers of all the Inns of Court, no person who has ever filled such an office can be called to the English bar, and he was, as a matter of course, rejected. He succeeded, however, in obtaining a conveyancer's and equity draughtman's license. Business immediately flowed in upon him. He read with avidity every treatise on real property, followed every case, and soon mastered the intricacies of the law of real property. Now he observed, in his course of study, how advantageous it would be to have a popular work, accessible to all men of property, which would contain information on the subject in a plain and scientific manner. And it was with this end that he wrote his "Law of Vendors and Purchasers of Estates." Having finished his work his courage failed him; the expense of publication was certain, while its success was uncertain; and it was not without difficulty that he could be persuaded from committing the manuscript to the flames. The book was, however, printed, and the amount he received for its sale was small; but never did he experience such satisfaction as when receiving that small amount.¹

The book was the foundation of his success; and was published in 1805. To exclude him longer from the bar would have been an act of intolerable injustice, and he was accordingly "called" in 1807. Next came out his work on "Powers," and his "Letters to a Man of Property on Buying and Selling

¹ Preface to the 13th edition of Sugden's *Vendors and Purchasers*.

Estates;" which was followed by an edition of "Gilbert's Law of Uses and Trusts," published in 1811.

Sugden's fame as a real property lawyer was now great. But his strength was unequal to the intolerable press of the business that poured in upon him: the sedentary life he consequently led began seriously to affect his health; and he resolved in consequence thenceforward to confine himself to court practice in the Court of Chancery. His ambition afterwards led him to aspire to senatorial honours, and in 1818 he offered himself as candidate for the county of Sussex, in the tory interest. Whilst making a speech on the hustings, he was interrupted by a brainless babbler, with a cry of "Soap-lather;" "Yes," said Sugden, undaunted, "I'm the son of a barber, and had that fellow who reproaches me with my birth been the son of a barber, he would have been a barber still." He had polled at the end of the second day's polling only a few votes, and in consequence retired. In 1822 he was raised to the dignity of King's Counsel by Lord Eldon. Jealous of the privileges of his profession, he was active in organizing a successful opposition to the appointment of Lord Plunket to the Mastership of the Rolls in England. In 1826, as the general election was approaching, a vacancy was expected in the representation of Shoreham, and Sugden, being in want of a seat, made overtures to the electors; and considering that it was useless to prosecute a canvass without first conciliating the good-will of the Duke of Norfolk, he applied to his friend the late Mr. Charles Butler, the eminent Catholic barrister, to solicit his grace's interest; according to Mr. Horsfield, the historian of Sussex, Mr. Butler wrote to one of the duke's most influential friends, requesting his support, and stating in his letter that Mr. Sugden was a decided friend of Catholic emancipation, a measure which at the time was of paramount interest. The duke, however, withheld his support, and a relative of his own, Mr. Henry Howard, offered his services. "On this," adds Horsfield, "Mr. Sugden addressed the electors, stating to them that he sought their support in order to help them to work out their own independence; and among other things his handbill contained the following paragraph, 'I have pledged myself against the admission of Catholics into parliament, and that pledge I shall faithfully redeem.' By some means Mr. Butler's letter came to the knowledge of the electors, who, feeling that they had been ill-treated in the matter, declined supporting Mr. Sugden, who found himself in consequence at the bottom of the poll. He was returned to parliament, however, for the borough of Weymouth, in the following year, as well as at the general election which took place after the death of King George IV. On the first occasion of Mr. Sugden addressing the House of Commons, he stood forward as the vigorous

upholder of the Court of Chancery, in opposition to those who, on motion to inquire into its constitution, denounced it as a "public curse;" so strenuous was his defence of that court, that it was a matter of surprise when, after a few weeks, he came forward with a bill for the amendment of the law as administered by that very court. Though now opposed on principle to the Catholic Emancipation Act of 1829, he still voted for the measure, but insisted on the literal construction of that clause which prevented Roman Catholic members, returned to parliament before the Act, from taking the new oaths. This clause had evidently been framed to exclude Mr. O'Connell, who had been returned before the passing of the Act.

The 18th May, 1829, was the day on which Mr. O'Connell was expected to take his seat after his first election for Clare. Long before the Speaker took the chair, the body of the House was filled with members, and the galleries with strangers. At length Mr. O'Connell was introduced by Lords Ebrington and Duncannon; and he declined to swear that the sacrifice of the mass was either impious or idolatrous, and claimed the privilege of taking the new oaths, as set forth in the Relief Act.

The Speaker declared that it was his impression that the new oaths authorised by the Relief Act had only reference to such members as should be returned to serve in parliament after the passing of the bill into law. Mr. O'Connell then proceeded to argue in favour of his admissibility on taking the new oaths. After he had concluded, a debate ensued, and Mr. Sugden was amongst the opponents of O'Connell, "whose talent and temper, however, he eulogised. They were such as entitled him to his approbation; and although he did not know whether the hon. member for Clare would accept the compliment in the spirit in which it was intended, he trusted that Mr. O'Connell would pay implicit deference to what might, he hoped, be the unbiassed opinion of the House."

The *unbiassed* opinion was then taken, when it appeared there were 190 against, and 116 in favour of the admission of Mr. O'Connell; who was then called to the table, and when he had again declined to take the insulting oath, the seat was declared vacant, and a new writ was issued for the county of Clare.

In the month of June, 1829, Mr. Sugden received the honour of knighthood, and was appointed at the same time Solicitor-General for England, an office which he held until the fall of the tory ministry, in 1830. The parliamentary debates of those years are filled with the speeches of this distinguished lawyer, whose prejudice against the Catholic faith not unfrequently brought him into collision with Mr. O'Connell. On the 22nd February, 1831, he moved for leave to bring in a bill to apply to Ireland the Statute of Mortmain. "By the provi-

sions of that Act, real property and property in the funds must be disposed of before the hand of death was upon the person giving away his property. The principle of the bill was to prevent any improper influence over parties when in the last stage of existence. It had been found very beneficial to England, and he wished to extend the law to Ireland."

Mr. O'Connell opposed the motion; he said that "the bill would deprive the Catholic Church of all charitable bequests; and the hon. and learned gentleman who thus began a crusade against the laws of Ireland should first ascertain what those laws were, and what was the state of the country." A sharp debate ensued, and Sugden withdrew his motion, admitting, at the same time, "that the object of the bill was to prevent the inconvenient disposition of property to Catholic charities."

He also spoke with much warmth against the reform bill in the debate on the 21st March, 1832. As to increasing the number of representatives for Ireland, he entirely objected to it. "Let them look at the Act of Union, and he would ask was not that question most fully considered? Was it not then decided that 100 members was the largest number Ireland was to have in the Imperial Parliament?"

Mr. O'Connell said that "the question of the number of representatives was not definitively settled at the time of the Union, and if the hon. and learned gentleman would look into the Act of Union, he would there find an express provision, with a view to some alterations to be thereafter made. They had no right to treat this part of the subject as the hon. and learned gentleman had done, as if it were an abstract question. Was there not, he asked, an identity of interest between the two countries?"

Lord Brougham was then Lord Chancellor of England. His laborious and successful exertions in carrying the reform bill through parliament are well known to the world. Nor did that untiring Chancellor, during the tedious progress of the reform bill, ever, even for a day, absent himself from his court. Writing multitudes of letters on the bench, whilst counsel was addressing him, he seemed to be endowed with a capacity for attending to several matters at the same time. Frequently in the course of the morning he would receive letters on the bench, read them, write, seal, and despatch answers, meanwhile asking questions of counsel concerning their arguments. This habit was peculiarly distasteful to Sir Edward Sugden, who tried to correct it, but was unlucky in the occasion he took, and the method he employed, for that purpose.

As the most marked and effectual intimation of his displeasure, he suddenly stopped in the middle of a sentence while the Chancellor was writing. After a considerable pause, the

Chancellor, without raising his eyes from the paper, said, "Go on, Sir Edward; I am listening to you." *Sugden*.—"I observe your lordship is engaged in writing, and not favouring me with your attention." *Chancellor*.—"I am signing papers of mere form; you may as well say I am not to blow my nose or take snuff while you are speaking." Lord Campbell says, though it is denied by Lord St. Leonards, that Sir Edward sat down in a huff; he was laughed at, and the Chancellor was applauded.

The Court of Chancery was in the early part of the present century one of the reproaches of the country. "Once in Chancery, always in Chancery," was a maxim! Of a decision of that court Sir Edward Sugden thus speaks:—"No one can distinctly discover what that decision is, one barrister having one view, and another barrister another; the registrar is not able to draw it up. Then come hearings and rehearings in the registrar's office, before a person *incompetent to decide the matter*—to settle what the decree of the court was; and after enormous expense for attendance, not to mention the loss of two or three months' time perhaps, the parties again come to the court—when judges and barristers have forgotten everything about the cause—to have decided what the court had decided many months before."

Lord Brougham, then Chancellor, was at the head of this system, and his knowledge of the general principles of equity was openly questioned by Sir Edward Sugden, who, in his place in the House of Commons, thought proper to inform that House that the "noble and learned lord was entirely uninformed on the law of equity which he was called on to administer, and nothing was more likely than that his decisions should be wrong." This from the greatest practitioner in the court, and concerning the judge before whom he must daily plead the cause of his clients, shocked the feelings of the entire country.

Lord Brougham, nevertheless, applying himself with vigour to the cleansing of this great Augean stable, promised, amongst other things, that the Chancery sinecures should be swept away on the first vacancies. Now, two offices—notorious sinecures—fell vacant, and, notwithstanding his promise, they were filled up. On the 25th July, 1832, Sir Edward Sugden asked a question in the House of Commons respecting the sinecures, whether they had been filled up, and if so, if the appointment was only provisional? The offices had been filled, however, by a brother of the Lord Chancellor. On the next day Sir Edward was speaking in the Court of Chancery, when the Lord Chancellor suddenly rose, and instead of intimating, as usual, that he was obliged to go elsewhere, left Sir Edward standing in the middle of a sentence. On that night his lordship made an elaborately prepared speech on Chancery sinecures, and vindicated his conduct; and referring to the question

that Sir Edward had asked in the House of Commons, he made an inexcusable attack on that learned lawyer, in language ill suited to his position and to the place in which he spoke. The required information he was ready to give, and then added:—"Yes, my lords; we have all read that it is the heaven-born thirst for information, and its invariable concomitants, a self-disregarding and candid mind, that most distinguishes man from the lower animals—from the crawling reptile, from the wasp that stings, and from the wasp that fain would, and cannot, sting—distinguishes us, my lords, not only from the insect that crawls and stings, but from that more powerful, because more offensive creature, the bug, which, powerful and offensive as it is, after all is but vermin. Yes, I say, it is this laudable propensity upon which humanity justly prides itself, which, I have no doubt, solely influenced the learned gentleman to whom I allude to seek for information which it would be cruel to stingily gratify."

That this attack of marked severity was not original is stated by Lord St. Leonards; and further, he says that the Chancellor was indebted for it to Pope. But we have no hesitation in stating that long before the time of Pope a similar remark was made by Coke—"I am not afraid of gnats, that can prick, and cannot hurt, nor of drones, that keep a-buzzing, and would, but cannot, sting."¹

The day following this attack Sir Edward was engaged in a case before the Chancellor. The court was crowded by those anxious to witness a quarrel between the judge and the counsel, but the former never raised his eyes from his note-book, and Sugden argued in a tone of independence and dissatisfaction.

The anger of the learned combatants seems, however, to have been of short duration. In the same year, and within two months from this scene, Lord Brougham (a vacancy having occurred in the Court of Exchequer) offered the vacant seat to Sir Edward Sugden, which, however, the latter declined to accept: and a day or two after, Lord Brougham, on Sir Edward's moving a motion in his room, came towards him with both hands extended, and said, "I think when a man does wrong, the sooner he says so the better." They then clasped each other's hands, and were ever after friends.

The change of ministry at the close of 1834 brought the tories back to power for a few months. Sir Edward, who a short time previously had successfully protested against Lord Plunket's being Master of the Rolls in England, now accepted without hesitation the Seals in Ireland. "What!" said O'Connell; "will the bar of Ireland tamely submit to this fresh insult flung upon them? Are there no able men to be found at

¹ Coke's Reports, vol. iv., p. vii.

the Irish bar, that we must have an English barrister sent amongst us? Will the bar submit to this foreigner holding high place amongst them?"

The Irish bar did submit, and on his arrival at his hotel in Dublin he was immediately waited upon by the most distinguished members of the profession. But his term of office was short. In the following month of April, a hostile vote in the House of Commons on the Irish Church threw out the government of Sir Robert Peel, and Sir Edward retired with the ministry. The court on that day was filled by an elegantly dressed crowd of ladies and gentlemen. At half-past eleven the Chancellor ascended the bench. In a few minutes after, the Lord Lieutenant, Lord Haddington, accompanied by an aide-de-camp, entered the court, and the Attorney-General rose to bid farewell to the retiring foreigner:—

"My lord,—I should do great injustice to my own feelings, and, I am persuaded, to those of the bar of Ireland, if I allowed your lordship to retire from that seat without attempting, however feebly, to convey to your lordship the impression of the deep sense which we entertain of the eminent ability and dignified demeanour with which you have discharged the important duties of your high office. Short as has been the period of your lordship's elevation, it has afforded ample opportunity for the display of judicial powers of the highest degree of excellence. Had this period been still shorter—had we been limited to the observation of a single day, it would have been sufficient to have impressed us with an indelible conviction of the profound, extensive, and accurate learning—the patience and discrimination—the masterly exposition and application of the authorities and principles of equity—and, above all, of the ardent love of justice, and elevated tone of moral feeling, which marked and distinguished your judgments. I have only to add our acknowledgments for your uniform urbanity and kindness, and to assure your lordship that you bear with you our regret at your retirement, and our most anxious wishes for your happiness and welfare."

On the 28th of April the Lord Lieutenant held a parting levee, which was attended by Sir Edward Sugden, who took his departure in a few days for England. He was now, for the first time in his professional life, full of leisure, and he immediately commenced to revise the whole of his work on "Vendors and Purchasers," and published an edition—the tenth—with numerous additions, in three volumes. In 1837 he was once more returned to the House of Commons as Member of Parliament for Ripon, and thenceforward took an active part in the debates on Irish questions. Her present Majesty had then ascended the throne, and within the first three years of her reign several

beneficial measures were passed—the poor law, the tithe law, and the law for municipal reform. On the poor law Sir Edward spoke, in opposition to the humane clause legalising outdoor relief. His reasoning prevailed, and thenceforward, whilst outdoor relief became illegal, with few exceptions, in Ireland, it remained as it had been, legal in England.

In September, 1841, the Conservatives regained their ascendancy, and Sir Edward Sugden was replaced in his former position, at the head of the High Court of Chancery in Ireland.

It was during his term of office that the agitation for a repeal of the Union assumed those alarming proportions which threatened a disruption of the empire. This movement had the approval of many of the magistrates throughout the country; but Sir Edward Sugden resolved to weed the magistracy of the repealers, and he accordingly superseded about twenty, including Lord Ffrench and Mr. O'Connell; while several others, of their own accord, resigned the commission of the peace.

Monster meetings were held at Tara, in the county of Meath; at Mullaghmast, in the county of Kildare; at Clifden, in the county of Galway; and last of all, a great metropolitan meeting was to have been held on Sunday, the 8th of October, 1843, on the historic shores of Clontarf, and on the spot where Brian Boru had vanquished the Danes, within two miles of the city of Dublin, along the bay. The garrison of Dublin then amounted to 4000 men, besides 1000 police, with abundance of field artillery.

Late in the afternoon of Saturday, when it was almost dusk, a proclamation was posted on the walls of Dublin, signed by Edward B. Sugden, C., and others of the Privy Council, forbidding the meeting.

Many persons did not at first understand the object of the Privy Council in keeping back the proclamation to so late an hour on Saturday, seeing that the meeting had been so many days announced, and that multitudes coming from remote parts of the country would never hear of the proclamation until they should be face to face with the military at Clontarf. But the thing was simple enough. The government intended to take O'Connell by surprise, perhaps to have raked the meeting with cannon-shot, and thus put an end to the repeal agitation for ever. O'Connell, however, issued a counter proclamation, announcing that the meeting was not to take place, and thus saved an unarmed multitude from being massacred in cold blood on the next day. Scores of messengers were despatched to all quarters of the country throughout the whole of that night, for the purpose of turning back the crowds who, unaware of the government proclamation, were pressing onwards to the next morning's meeting.

Within a week O'Connell and eight others were held to bail to take their trial for "conspiracy and other misdemeanours."

The State trials commenced on the 2nd November, 1843. A revision of the special jury list had previously taken place before Mr. Shaw, Recorder of Dublin, with a special view to those trials. The names, when passed by the Recorder from day to day, were then sent to the sheriff's office, to be placed on his book. Counsel were employed before the Recorder to oppose by every means the admission of every Catholic gentleman against whom any colour of objection could be thought of; yet, with all this care, a large number of Catholics were placed on the list. Now, as the names were transferred to the sheriff's office, it so happened that the slip which contained twenty-three Catholic names missed its way, or was mislaid, and the names it contained never appeared on the sheriff's book. This became immediately notorious, and excited what one of the judges called "grave suspicion."

In striking a special jury at that time in Ireland, forty-eight names were taken by ballot out of the sheriff's book in the Crown Office; then each party, the Crown and the traverser, had the privilege of striking off twelve—thus leaving twenty-four names; and, on the day of trial, the first twelve out of the twenty-four who answered their names when called were sworn as jurors. Now, so well did the sheriff carry out the views of the government, and so well did he manage the list, that out of the forty-eight there were just eleven Catholics, and these eleven names were struck off, and a jury whose principles could be relied on was secured. This process of packing the jury having been completed, the trial commenced at the bar of the Queen's Bench, and before the full court, composed of Chief Justice Pennefather, Justices Burton, Crampton, and Perrin. The defendants—Daniel O'Connell, John O'Connell, Richard Barrett, Thomas M. Ray, John Gray, Thomas Steele, Charles Gavan Duffy, and Thomas Tierney—were indicted for a conspiracy, and convicted.

An animated debate ensued in parliament on the state of Ireland. Lord John Russell felt that the practice of jury-packing was intolerable, and calculated to bring the laws and the administration of the laws into hatred and contempt. "Could the same or similar cases have happened in Yorkshire, Sussex, or Kent? Are these the fulfilment of the promises entered into at the Union?" and his lordship (forgetful of the Campbell job) concluded by expressing his astonishment at the government having selected Sir Edward Sugden, an English lawyer, to fill the office of Lord Chancellor of Ireland. Sir Robert Peel retorted by upbraiding the whigs for insulting Lord Plun-

ket by degrading him from the bench, and thereby insulting the whole Irish nation. "Lord John Russell," he said, "had the good fortune to be connected with a man who had long been the faithful friend of the whig party—the pride of the bar of Ireland—the ornament of the British senate—the friend of Grattan: the noble lord had the happiness of being connected with Lord Plunket, whose name will be handed down to remote posterity as one of the brightest stars in the constellation of Irish eminence. Lord Plunket is the son of a Presbyterian minister, and he raised himself to the office of Lord Chancellor of his own country; the Irish bar rejoiced at his elevation. The noble lord thinks it necessary to consult the prejudices and conciliate the feelings of the people of Ireland, and he taunts us with making an English appointment, overlooking the claims of the people of Ireland. He had a Chancellor, the most eminent man the bar of Ireland had produced, and six weeks before he (Lord J. Russell) quitted office—he who is so sensitive on behalf of Ireland, so jealous of offence to that country, so opposed to the preference of Englishmen—having that man, a connexion with whom was the boast and pride of the whig party, in the situation of Lord Chancellor, signified to Lord Plunket—the Irishman—the Lord Chancellor, that it would be expedient for him to retire; and for what? So far as the public is apprised, in order that he might gratify the vanity of, certainly, an eminent and distinguished lawyer—of one, of whom I wish to speak with the respect I feel for him—in order that he might gratify the vanity of a Scotchman, by a six weeks' tenure of office, and offered—an insult, I will not call it, but—an affront to Ireland; which, whatever the noble lord may think of my disposition towards that country, I would not have put upon it and remained in office one hour."

On the 25th of April following, an application for a new trial was made at the bar of the Queen's Bench, and refused; and Mr. O'Connell and the other traversers were called up for judgment, and imprisoned in Richmond Penitentiary for the term of twelve calendar months. Meanwhile the judgment of the Queen's Bench was brought, by a writ of error, to the House of Lords, and there, on the 2nd and 4th of September, debated by counsel before the Lord Chancellor, Lord Lyndhurst, Lord Brougham, Lords Cottenham, Campbell, and Denman. These were the only members of the House of Lords that attended to the case. Lords Lyndhurst and Brougham severally delivered their judgments, that the judgment of the court below do stand confirmed; while Lords Cottenham, Campbell, and Denman were for its reversal. "My lords," observed Lord Denman, "if this be trial by jury, trial by jury becomes a

mockery, a delusion, and a snare." The Lord Chancellor then inquired whether it was the pleasure of their lordships that the decision of the court below should be affirmed? The great majority were in favour of the judgment remaining undisturbed. Lord Wharncliffe, the President of the Council, then addressed their lordships, imploring of those unlearned in the law not to interfere in the matter, "and to leave the case in the hands of the law lords, who, in fact, constitute the Court of Appeal. If noble lords unlearned in the law should interfere to decide such questions by their votes, instead of leaving them to the decision of the law lords, he very much feared that the authority of this House as a Court of Justice shall be greatly impaired."

Lord Brougham—"Deeply lamenting the decision of the majority of the law lords," concurred with what had fallen from the President of the Council.

Lord Campbell—"With reference to what has been said of the distinction between *law lords* and *lay lords*, and leaving the decision of this case with the *law lords*, it is unnecessary for me to say more than that the distinction is unknown to the constitution, and that there is no distinct order of law lords in the formation of your lordships' House. But there is a distinction in reason and the fitness of things, between members of a court who have heard a case argued, and members of that court who have not heard it argued; and those only who have heard the arguments should take part in the decision. I believe that none but those who are called law lords have constantly attended while this case has been debated at your lordships' bar."

The Lord Chancellor :—"I think those noble lords who have not heard the arguments will decline voting if I put the question again."

The Marquis of Clanricarde :—"My lords, I think it right to say, that if any noble lord, not learned in the law, who has not heard the whole argument, votes in addition to the law lords on this question, I shall, as a matter of privilege, think it my duty also to give my vote. In stating that intention, I must also state that I should be very sorry to be reduced to that necessity, for I should look on the course of proceeding which would oblige me so to act to be one of the most calamitous nature to the House and the country. I think it infinitely better that all those noble lords, who are not in the common acceptation of the term, and in the usage of parliament, qualified to decide, should leave the House."

All the lay lords then withdrew, and the judgment of the Court of Queen's Bench in Ireland was reversed.

Thus terminated those trials. Daniel O'Connell and his

fellow-prisoners were liberated from custody, and the repeal agitation was carried on with vigour during the remaining term of Sir Edward Sugden's Chancellorship, which terminated with the overthrow of the Conservative government in the summer of 1846. He then returned to England, and during the succeeding years took part in the debates on Irish questions. The harvest of that memorable year was a failure. The potato crop, blasted in one hour, lay rotting in the fields. The famine of 1847 and '48, which followed, changed the whole face of society. The landlords and their tenants—the mortgagors and their mortgagees—were alike engulfed in ruin. Thousands and tens of thousands of the miserable peasantry perished from hunger on the way side. Their landlords, powerless to relieve them, struggled for their own existence. Society was shaken to its inmost depths; and no institution save the lazaret-house and the emigrant ship flourished in this unhappy country. Millions of money, flung into the Irish Maelstrom, disappeared *ὁλέχοντο δὲ λαοὶ*, “but the people still perished.” The deeply incumbered estates were unable to pay their incumbrances, and the sorely tried incumbrancers in vain sought to realize their charges. The value of the land was reduced so low that in many instances estates were abandoned, to pay the rates for the support of the poor.

It was in this state of things that a Court for the Sale of Incumbered Estates was established. Lord St. Leonards claims to have been the author of that bill, while Lord Romilly gives a flat denial to the truth of that claim, and says that he and a gentleman unknown to fame, a Mr. Coulson, were the authors of the scheme. Twenty years after the measure had become law, Lord St. Leonards gives the following account of its early history, and of his connexion with it:—“Just after the Incumbered Estates (Ireland) bill passed, Lord Campbell and I dined as benchers at Lincoln's Inn. Leaving the Inn together—I to reach Waterloo station, and he to go to Kensington—we walked arm-in-arm down the Strand, which was somewhat out of his way, and had much confidential conversation. He appeared to take a lively interest in my administration of the law in Ireland, and expressed his regret that I had not accepted the offer of chief judge of the new court. I said that I declined to take a lower position in the court than the one I had occupied; besides, the place, with all its novelty and difficulty, was not attended with any income beyond my retiring pension as Chancellor. He expressed the greatest surprise, said it was a mistake; that £10,000 a-year would not be too much for me, and that the government would immediately obtain an Act of Parliament to authorise the grant. I told him that money alone was not the object; but if they had intended to grant a large salary, they should have provided for it at once; and that nothing would

induce me to allow an appeal to parliament for a large salary to be granted to me. We then parted. I may here mention, that while the bill was passing, the government gave some mysterious hints as to how the chief judgeship was to be filled. As soon as it passed, Lord John Russell sent for me, and made the offer of chief judgeship, which I declined. He said he supposed I knew the nature of the bill. 'I answered it would be singular if I did not, as *I was the author of the measure*. He looked incredulous. I explained to him that Sir Robert Peel had a scheme for relieving the incumbered estates in Ireland, and he sent it to me for my opinion. (I have it now before me, a long and elaborate paper.) I wrote to him that I thought his plan would not work; and I then gave him a sketch of a bill which would work, but I observed that I did not say I would pass such a hard measure if I had the power. I considered it, as to property, like the suspension of the Habeas Corpus Act as to person, and, like it, should not be carried beyond the actual necessity of the case. That letter Sir Robert Peel sent to Lord Clarendon in Ireland, and he sent it to the government at home; and upon that scheme the bill was founded, as, I think, Sir Robert Peel informed me. I understood Lord John Russell to say that he believed some paper was sent."

Such is the account given by Lord St. Leonards in his "Defence," published in the month of March, 1869.¹

Immediately on the appearance of this work, Lord Romilly, then Master of the Rolls in England, addressed the following letter to the London *Times*:—

"SIR—I should be much obliged if you would permit me to correct one of Lord St. Leonards' corrections of the misrepresentations in Campbell's '*Lives of Lyndhurst and Brougham*.' In page 50, Lord St. Leonards claims to have been the author of the measure called the Incumbered Estates (Ireland) bill. Lord St. Leonards states that the scheme was sent by him 'to Sir Robert Peel, who sent it to Lord Clarendon in Ireland, who sent it to the government at home, and upon that scheme the bill was founded, as (Lord St. Leonard thinks) Sir Robert Peel informed him.'

"I am able to state, in answer to this, that neither Lord St. Leonards nor Sir Robert Peel took any part in the framing of that measure, or in suggesting any of its provisions. There are two Acts of Parliament which were passed relating to the sale of incumbered estates in Ireland. The first passed in 1848, and the second, which is usually called the Incumbered Estates (Ire-

¹ *Ibid.* Misrepresentations in Campbell's "*Lives of Lyndhurst and Brougham*," corrected by St. Leonards," page 49.

land) Act, passed in the year 1849. When I was appointed Solicitor-General, in 1848, I found that the former of these bills had been introduced into the House of Lords by the government of Lord Russell. When this bill came down to the House of Commons I thought it very meagre and imperfect, and, in conjunction with the late Mr. Walter Coulson, I framed a long series of clauses, which completely altered the character and scope of the bill, and which introduced many of the powers and provisions which in the following year were given to the Incumbered Estates Court. The working of the measure was by this Act entrusted to the Court of Chancery in Ireland. The clauses introduced by me alarmed Lord Cottenham, who was then Lord Chancellor, and, by his desire, they were modified. This Act passed in August, 1848; it is the 11th and 12th Victoria, cap. 48, and is entitled 'An Act to Facilitate the Sale of Incumbered Estates in Ireland.' The correctness of this statement may be ascertained at the Library of either Houses of Parliament, by comparing the bill, as it came down from the House of Lords, with the Act as amended and as it passed.

"In the following year the alterations thus introduced into the Act, by the desire of Lord Cottenham, were found to impede action under it, and Lord Russell instructed me to prepare another Incumbered Estates bill for Ireland. He gave me full liberty to prepare it as I thought desirable, both as to the scheme to be adopted, and as to the provisions to be introduced for working it, permitting, at my request, that the working of the Act should be confided to a new court to be constituted for that purpose. On this I, together with Mr. Coulson, framed the Act of 1849, which is usually called the Incumbered Estates Act, and which is entitled 'An Act *Further* to Facilitate the Sale and Transfer of Incumbered Estates in Ireland,' 12th and 13th of Victoria, cap. 77.

"If Sir Robert Peel sent to Lord Clarendon or to the government at home any plan or any scheme which he had received from Lord St. Leonards or from any other person, it was never submitted to Mr. Coulson or myself; neither of us ever heard of it; we had no plan or suggestion from anyone; we framed our scheme in consultation together, after obtaining such information as might be derived from the speeches made in parliament, and from works relating to Ireland which had any relation to this subject. No one ever saw the bill, except Mr. Coulson and myself, until after it had been introduced into the House of Commons. After this it was printed, and then we circulated it freely in all places among persons interested in the subject, and requested them to send us any communications and suggestions that occurred to them. That little was derived from this source may be ascertained by comparing the bill as introduced into the

House of Commons with the Act of Parliament as it received the royal assent, which also can be done by anyone in the Library of either Houses of Parliament. Sir Robert Peel was present in the House of Commons when I introduced and stated the provisions of the bill, which appeared to be quite new to him. On that occasion he was pleased to pay a high compliment to me, and he never, then or at any other time, claimed to have any part in the preparation or suggestion of the scheme propounded by that bill, or of the provisions contained in it; on the contrary, both in public and private, he always spoke of me as the author of the Act.

"In truth, the merit of it was principally due to Mr. Coulson, a gentleman whose great knowledge and abilities are still appreciated by his surviving friends; and in the last words I spoke, when the bill finally passed the House, I endeavoured to do some justice to him. I repeat that neither Sir Robert Peel nor Lord St. Leonards knew anything of it, or had anything to do with it, until it was introduced into parliament."

"In truth, this is one of the many instances I have observed in the course of my life where the credit of having suggested or framed a successful measure is claimed by, and frequently awarded to, some great man who had nothing to do with it, while the real merit belongs to a person little known, and who leaves no name behind him beyond the time when the last of a few friends shall have followed him to the grave.

"That these facts are correct, anybody can verify by reference to *Hansard* and the documents preserved in the Library of the House of Commons. There are also many gentlemen on both sides of the House now alive who were present, and who took a part in these proceedings, who can, and I believe would if appealed to, bear witness to the truth of what I have here stated.—I am, sir, your obedient Servant,

"ROMILLY.

"HYDE PARK-TERRACE, *March* 12, 1869."

During the four years following his retirement from the Court of Chancery in Ireland, Sir Edward appears to have enjoyed a life of retirement. In 1850, however, he was awakened from his repose by a papal brief direct from Pius IX., mapping out the kingdom of England into dioceses. This was looked on at the time as an aggression as great perhaps as that of Gregory the Great in the sixth century, when he despatched Augustin for the conversion of England, under its Saxon monarchs. Sir Edward denounced the aggression; and his speech at a public meeting at Epsom was unsurpassed in the force of eloquent indignation.

On the return of the Conservatives to power, in 1852,

Sugden was appointed Lord Chancellor of Great Britain, being created at the same time Baron St. Leonards, of Slaugham, in Sussex; Lord Lyndhurst declaring "that no government was ever more fortunate in a Chancellor, and that the present occupant of the woolsack, besides being the greatest of lawyers, was distinguished by his placid temper, and his mild and gentlemanly manner."

The resignation of the ministry in the same year again placed the Seals in the hands of the Crown, and Lord St. Leonards ceased to be Chancellor on the 28th of December, 1852. Exceeding at that time the age of three score and ten years, he refused office on the several accessions of the Conservatives to power. "But in the House of Lords and in the Judicial Committee of the Privy Council he continued to afford his valuable assistance."

As a law reformer, Lord St. Leonards did much; for it is to his learning, genius, and ability, that the country is indebted for the many benefits bestowed upon it by the Trustee Relief Act. Previous to the passing of that measure, the Court of Chancery insisted that all trust moneys should be invested in the public funds, which of late years produced only three per cent. per annum. By reason of this inflexible rule, many families were forced to live on slender incomes, as no landed security, however unexceptionable, would or could be accepted, unless the deed creating the trust contained a clause empowering the trustees to invest the trust funds on other securities.

The name of Lord St. Leonards is conspicuous in the public press in 1867, at a time when the hatred of the Irish towards the English race threatened once again to burst into an unquenchable flame. The unsatisfactory state of the land laws and of the Protestant Church, and of the representation of the people, afforded a pretext for the Fenian movement of that year. In 1798, as in 1641, the people were uneducated; but in 1867 they had become educated; they had been taught to read in the National Schools, and they did read, and did dwell on, the history of past ages—on persecutions unsurpassed, on confiscations unavenged, and on cruel evictions; and, educated as they were, they were forced to fly from their ancestral homes to countries beyond the Atlantic—

"Nos patriæ fines et dulcia linquimus arva;
Nos patriam fugimus."

They soon became imbued with American ideas, and those ideas were wafted back by every wind that blew from the American to the Irish shores. Secret societies were formed, and they took the name of Fenians from their great predecessor, Fenius, one of the mighty men of old, men of renown. The Fenians

of our day spread with great rapidity over the United Kingdom and America, and Fenianism became a by-word and a terror to every man who had anything to lose—outrages followed outrages with unexampled rapidity. The cruel hand of the assassin was raised against the cruel landlord who had dared capriciously to eject from their holdings the ancient proprietors of the soil. Stands of arms were sent across the Atlantic, gun-shops were entered in the open day and were plundered in the great cities of England and Ireland—barracks were attacked—martello towers seized—houses in the heart of England demolished, and a general rising was expected, the object of which would have been the disruption of the United Kingdom.

The cry of alarm arose all over England, and every Englishman became a special constable. In the middle of the wide-spread terror came forward the aged Nestor of the bar, then in his eighty-seventh year, to offer, with the persuasive eloquence of former days, his counsel, through the columns of the public press.¹ He lectured the Fenians, but his lecture was to them as the idle wind, and his sarcasms were to them as the feeble darts of Priam amid the crackling ruins of Troy.

Lord St. Leonards lived to the advanced age of ninety-four years. He died on the 29th of January, 1875, leaving behind him a name great amongst the judges of England. Unrivalled in the depth and minuteness of his knowledge of the more abstruse branches of the law; unequalled for logical power and critical acumen; a writer of the rarest excellence, and of authority second to none, he was great amongst the greatest who have ever adorned the bench. The writer in Holy Writ thus describes the wise man who lived 2900 years ago; and perhaps, in the description, a parallel may be found to him of whom we write to-day—"And God gave to Solomon wisdom and understanding exceeding much, and largeness of heart, even as the sand that is on the sea shore. And Solomon's wisdom excelled the wisdom of all the children of the east country, and all the wisdom of Egypt. For he was wiser than all men."

113. A. D. 1841.—LORD CAMPBELL (John Campbell). Lord Campbell was born at Cupar, the county town of Fifeshire. His family had been for several generations settled in the kingdom of Fife, as it was called, and were a branch of the Campbells of Argyle, through George Campbell, who, in the troubles of the Covenanting times, considerably impaired his fortune by adherence to his chief (the first Marquis of Argyle), and who, at the close of the reign of Charles II., became proprietor of the estate

¹ *Vide* letter of Lord St. Leonards to the *Times*, 27th December, 1867.

of Baltulla, in the vicinity of St. Andrews. The great-grandson of this gentleman was George Campbell, who was for fifty-four years Presbyterian minister at Cupar, and who was married in 1776 to Miss Halyburton, through whom he became connected with several noble families, among which deserves to be especially mentioned the family of Wedderburn. By this lady he became the father of a family of five daughters and two sons. Of the sons, the elder was Sir George Campbell, of Edenwood, who died in 1854. The younger is the subject of the present memoir, and was born at Springfield, near Cupar, on the 15th of September, 1781. He had been intended for the ministry of the Church of Scotland, but, conceiving a dislike for that mode of life, he turned his thoughts to the English bar, the highest distinctions of which had been frequently won by his fellow-countrymen. Early in 1800, Campbell left Edinburgh for London, a journey which he accomplished in three nights and two days—a space of time too short, as it was then thought, for safety, and he was, in consequence, advised to break the journey at York, as several passengers who had gone through without stopping afterwards died of apoplexy, induced, as it was gravely said, by the extreme rapidity of the motion!

His earliest associates in London were those Scottish whigs to whom the name of Campbell had a fine Presbyterian flavour. He soon joined a club of the sons of the clergy of the Church of Scotland, of which Serjeant Spankie and Wilkie, the painter, were members. To Serjeant Spankie, then editor of the *Morning Chronicle*, he was indebted for an appointment on that newspaper, for which he became a reporter and theatrical critic. In November, 1800, he entered himself as a student of Lincoln's Inn, and began to study the mysteries of special pleading, under the guidance of Mr. Tidd. To the very great advantage of having been three years his pupil he chiefly ascribed his success at the bar, to which he was called in Michaelmas Term, 1806. Between 1809 and 1816 he published a series of Reports at Nisi Prius, extending to four volumes, which are most valuable in themselves, but which were of especial interest to the attorneys who had been engaged in any of the cases recorded, inasmuch as, for the first time in the history of reporting, he had at the end of each decision stated the names of those attorneys who had to do with the trials. This innovation soon brought him into connexion with the leading men of that profession, and he gradually grew into large practice. In this way he plodded on from year to year, attaining to none of the honours of his profession during the long Chancellorship of the great tory Chancellor, Lord Eldon. The Coalition ministry however, with Lord Lyndhurst as

Chancellor, came into office in 1827, and John Campbell was immediately appointed King's Counsel. From this time forward the whigs gradually increased in power, and Campbell endeavoured to improve his chances by trying for a seat in parliament. He became Member for Stafford in 1830. In November, 1832, he was appointed Solicitor-General, with a knighthood, and in the following month was returned by Dudley as its representative in that reformed parliament which was, in Lord Eldon's view, to seal the doom of the nation. In February, 1834, Sir John Campbell was appointed Attorney-General, and was unfortunately unseated at Dudley, but was soon after elected Member for Edinburgh, and so continued until his elevation to the peerage in 1841. It was while he was Attorney-General that the great fire occurred in one of the buildings of the Temple, in which all his law books and manuscripts, together with many valuable official documents, were consumed; but the loss which he most of all lamented was that of a collection of letters written to him by his father, in a continued series, from the time he had left his home for college until 1824, when the aged pastor died.

The legal reforms effected by Sir John Campbell during the period of his Attorney-Generalship were many and important. The Act known as "Lord Campbell's Act for the Amendment of the Law of Libel as it affects Newspapers" was one of the wisest efforts of modern legislation, permitting, as it does, the proprietor to pay a small sum into court, and escape further damages by proving both that the libel appeared without malice, and that it was followed by the insertion of an apology. Several important cases were tried in his Attorney-Generalship, in some of which, however, he was unsuccessful. Thus in the prosecution of Lord Cardigan before the House of Peers for shooting Captain Tuckett, he failed; for immediately on the closing of the case for the Crown, Sir William Follett, whom no technical lapse could escape, pointed out that the prosecution had neglected to establish an important fact, which was essential to a conviction, namely, that the person engaged with Lord Cardigan in the duel was named Harvey Tuckett, as alleged in the indictment, or that a Captain Harvey Tuckett was at Wimbledon Common at all on the day of the duel. The result was that the case broke down, and Lord Cardigan was pronounced "Not guilty," without being called upon for his defence. Sir John Campbell was not more successful in vindicating the privileges of the House of Commons in the celebrated case of *Stockdale v. Hansard*, an action brought against the printer of the House of Commons for a libel contained in some papers printed by order of the House; but the speech delivered

by him on this occasion may be regarded as a very complete treatise on parliamentary privilege.

One of the most celebrated of Lord Campbell's speeches was delivered in a case of too delicate a nature, and too close to the time at which we now write, here to repeat. Suffice it here to say, that the Prime Minister, Lord Melbourne, was defendant in the action, and that, as he was successful in his defence, it might be expected that his counsel, Sir John Campbell, would be rewarded with some of the prizes of the profession. Mr. Pepps, an equity lawyer, was appointed, nevertheless, over his head to the Mastership of the Rolls, and Lord Cottenham was raised to the woolsack. The Attorney-General, however, who was a common law lawyer, gave way, and the cabinet expressed their sense of his generosity by raising his wife, Lady Campbell, to the peerage, with the title of Baroness Stratheden. Lord Melbourne remained in office for six and a-half years, and no vacancy that the Attorney-General could accept occurred during that period. *

Lord Normanby, while Viceroy of Ireland, courted the friendship of O'Connell, and distributed the patronage of the Crown on his recommendation. It was at this period (1839) that the tories accused the government of truckling to O'Connell; and he, in truth, gave them his support, and called on all Ireland to rally round the ministry. Lord Normanby bestowed places on Catholic lawyers, dismissed Orange magistrates, received Catholic notabilities at the Castle, made excursions through the provinces, and liberated from the jails great numbers of prisoners. Lord Brougham, in consequence, moved and carried a vote of censure against Lord Normanby in the House of Lords, and his Excellency, therefore, retired from the viceroyalty, and was succeeded by Lord Ebrington. But the continued assaults to which the whigs were exposed all through the year 1841 warned them that their hour was soon to come; and it was before it came that Lord Plunket was constrained, as we have already told, to retire from the Irish woolsack, and Sir John Campbell was appointed Lord Chancellor of Ireland in his stead. He was at the same time raised to the peerage by the title of Baron Campbell. On the 28th of June he arrived at the Bilton Hotel, in Sackville-street, and on the 2nd of July he made his first appearance in the Court of Chancery. The reformation of abuses in that Court occupied his early attention, and on his second sitting he thus spoke:—

“As there are no other causes, petitions, or motions to be disposed of, the sittings will now close. And I think it proper to mention to the bar, that I propose forthwith to devote myself

to the consideration how far the procedure of the court may be facilitated, simplified, and improved.

"I have the satisfaction to find, that where the Chancery practice is different in England and in Ireland, that established here is, in various instances, to be preferred—as discarding useless forms and speeding the suit to a hearing. The mode of enforcing decrees in mortgage suits is, likewise, much more effectual.

"In the abolition of the Six-clerks' office, an example has been set, which England will do well to imitate. This change, I have every reason to believe, has proved a great relief to the suitors, and has materially facilitated the conduct of business among the solicitors.

"But there can be no doubt that, both in England and in Ireland, the administration of justice in courts of equity may be still greatly improved, by increased expedition and diminished expense.

"While for grievances, redressed by courts of 'common law, a speedy and comparatively cheap remedy is afforded, it must be admitted that, where demands are of a fiduciary nature, so that they can only be enforced in a court of equity, the delays are often most harassing, and the costs are often so great, in proportion to the sum to be recovered, that the more prudent course is to submit to wrong, and to give a triumph to fraud.

"One great cause of this evil is, the prolixity of the written pleadings in a suit, which is generally begun by the plaintiff in his bill very tediously, telling his tale three times over. I know it is the opinion of that consummate equity judge, Lord Cottenham, that a single statement of the facts on which the plaintiff asks for equitable relief would be sufficient, and that the other parts of the bill are superfluous.

"But I believe that in various cases, where property is to be administered by the aid of the court, bills and answers may be entirely dispensed with; and that upon a short petition such cases may at once be disposed of by a reference to the Master. The time and expense thus saved in creditors' suits and others of the same description it would be difficult to calculate without seeming exaggeration.

"In these reforms I know that I shall have the warm and generous support of the bar. In the alterations I have been instrumental in introducing into the law of real property, and the law of debtor and creditor, in England, I was zealously seconded by all the branches of the profession there; and here I may confidently look for equal intelligence, and equal disinterestedness.

"My great reliance, however, must be on the advice and co-operation of that accomplished lawyer Sir Michael O'Loghlen,

the Master of the Rolls, equally distinguished for the soundness of his decisions on the bench, and the aptitude he has displayed for the improvement of our judicial institutions.

"I do not forget that, before I have completed this important undertaking, I may be reduced to a private station; but this can be no sufficient reason why I should not zealously enter upon it. I shall be prepared, at any time, to leave the high office which I have now the honour to hold, with the consciousness that, while I held it, I intended well."

Before Lord Campbell could proceed in the work of reform, he was reduced to a private station, and returned to England on the breaking up of the Melbourne administration, in the month of August, 1841. But never—and surely this is worthy of record—never, though entitled to his retiring pension of £4000 a-year, did he apply for or receive one farthing on foot of same! He had now leisure to follow those literary pursuits to which in his earlier years he had been devoted. The subject he chose was the History of the Lives of the Lord Chancellors of England—a work of marvellous research, deep learning, and great beauty, but against which the unsparing sarcasms of Lord St. Leonards have been directed, being, he says, as far as his connexion with Lord Brougham and Lord Lyndhurst went, a work of "misrepresentations," of allegations "unfounded in fact," of "statements wholly untrue"—"being such a publication as no man can be sure that he may not be libelled." If it be that the biographer of the Chancellors did libel the living and the dead, Sir Charles Wetherell may have been justified in his amusing allusion: "Then there is Lord Campbell, his noble and biographical friend, who has added a new terror to death." It is not within our province to inquire whether Lord Campbell's "Lives" deserve the onslaught made upon them by Lord St. Leonards; but, as to Lord Campbell's own life, there can be no manner of doubt that he was in advance of his time, and in advance of Lord St. Leonards himself, in advocating, to a certain extent, a fusion of law and equity. When he was Chancellor he introduced a bill which contained many amendments of procedure at common law, and two clauses which extended to courts of law, in certain cases, the power to grant injunctions, and which enabled the common law judges to administer generally equitable relief. This, Lord St. Leonards says, he strongly opposed in the House, and drew their lordships' attention, in committee, to the two jurisdictions of law and equity; and, finally, through his active interference, the Lord Chancellor was constrained to run his pen through the equity clauses.¹

¹ Lord St. Leonards' "Defence," pp. 51-53.

Lord Campbell was not raised to the woolsack of Great Britain by the government of Lord John Russell, which came into power in the summer of 1846. The Great Seal was then given to Lord Cottenham, and Campbell had to rest *unsatisfied* with the Chancellorship of the Duchy of Lancaster—a place which he hesitated to accept until reminded by the Premier that “this office has been held by Sir Thomas More and by Dunning.” His seat in the Cabinet scarcely interrupted his literary pursuits; and, in fact, during his tenure of office he published several volumes of his biographical series. His leisure was not seriously invaded until Lord Denman, early in 1850, retired from the Chief Justiceship of the Queen’s Bench, when Lord Campbell was appointed in his stead. Even this appointment was cavilled at. Lord Denman had a noble presence and a dignified eloquence; Lord Campbell was not of a commanding address; his language was homely, and his judicial faculty was almost untried. He did not, however, fail to maintain the dignity of his office. His conduct in those great criminal trials in which the direction of the presiding judge is of the highest importance has been worthy of the bench on which he sat. It once suited the argument of Horne Tooke to speak of the judge in a jury trial as an officer whose function is like that of the common crier, merely to preserve order. At a trial like that of the notorious William Palmer, such a view of the duties of a judge, if ever for a moment seriously entertained, would have been rudely shaken. It was one of those cases of circumstantial evidence which could leave no doubt of the prisoner’s guilt on the mind of any jurymen; but a very strong attempt was made to prove that, however clear might be the assurance with regard to the murder and the murderer, still the legal evidence was incomplete, and that Palmer ought to have the benefit of the lapse in the argument. The case was removed from Stafford to be tried before Lord Campbell, at the Old Bailey, where it was expected that the prisoner would obtain better law and a fairer field. The Crown prosecution was conducted by the Attorney-General in person. Great as was the praise which Sir A. Cockburn justly reaped on this occasion, to none engaged upon the trial was its satisfactory result more due than to Lord Campbell, who, unawed by the opposition which the friends of Palmer attempted to raise, and the confidence which they expressed, overruled their frivolous objections, and charged the jury in terms which implied the condemnation of the prisoner. In such cases the influence of the presiding judge cannot be well overrated, and Lord Campbell performed his part with a temper which disarmed offence, with a discretion that was seldom at fault, and with a zeal which never flagged.

The years immediately following the restoration of the Ca-

tholic hierarchy in England were remarkable for the intensity of the religious animosity against the Roman Catholic faith in that country. That Lord Campbell, though a man of advanced liberalism, shared in the universal indignation, may be illustrated by the following incident. His lordship and Mr. Justice Crompton travelled the Norfolk circuit at the Lent Assizes, 1852. Now, it so happened that the sheriff of Buckinghamshire was a Mr. Scott Murray, a gentleman who had seceded from the Established Church and become a Catholic, and had appointed the Rev. Mr. Morris, who was also a Catholic convert, to be his chaplain. On Sunday, the 29th of February, Mr. Justice Crompton proceeded in the sheriff's carriage to the church of the hamlet of Walton—whence, having deposited the learned judge, the high sheriff and his chaplain drove direct to the Catholic chapel, heard mass, and returned to the church and there picked up his lordship. On the following morning, Lord Campbell presided in the Crown court, and in his address to the grand jury spoke of the impropriety of the sheriff introducing his Catholic chaplain into the presence of the judges on circuit. "The chaplain," he said, "becomes the chaplain of the judges, and the Protestant religion is the religion of the judges of this country; and he hoped that this act of intruding the presence of a Roman Catholic priest upon them would not be repeated." The grand jury then presented their full approval of what had fallen from the noble and learned Chief Justice.

Lord Campbell continued to fill his high office with increasing reputation until Lord Palmerston succeeded to power in 1859, when the biographer of the Chancellors was himself appointed to the woolsack. Many may have expected that a judge so long practised in the administration of the Queen's Bench would have felt at a loss in the House of Lords or the Court of Chancery; but Lord Campbell lost none of the fame as Lord Chancellor which he had most justly acquired as Lord Chief Justice.

On Saturday, the 22nd of June, 1861, he sat for the last time in court. The arguments in a case of some importance—*Cardinall v. Molyneaux*—had concluded, and judgment was reserved; that judgment he never delivered! After leaving court he attended a cabinet council, and entertained a party on the same evening. He retired to rest in his accustomed health and spirits, but passed away in the night without giving an alarm.

Lord Campbell had purchased, some years previous to his death, a property near Moycullen, on the western shores of Lough Corrib, in the county of Galway. His name for kindness of heart to his tenantry soon became, in that remote district, even as a household word. He is yet remembered as amongst

the best and kindest of the landlords of Ireland. By his energy and determination he obtained the highest rank in his profession ; and he so fulfilled the duties of Lord Chancellor as to win a name not unworthy to be placed beside those of any of his predecessors whose careers he has described.

114. A. D. 1846.—SIR MAZIERE BRADY (baronet) was descended from the noble and once powerful family of O'Brady, otherwise O'Grady, which boasts of an equal antiquity, and a common lineage, with that of O'Brien, from the ancient kings of Ireland. To Sir Denis O'Grady, *alias* O'Brady, knight, and chief of his name, Henry VIII. granted by letters patent the several lands which had previously belonged to the family. Sir Denis died in Limerick in 1569, and his fourth son, Hugh, on whom the estates had descended, was married to Alice (who was married, secondly, to Sir Geoffry Fenton, Secretary of State), daughter of Sir Robert Weston, 85th Lord Chancellor of Ireland, and by her was father of Nicholas Brady, escheator of Connaught in 1606, who was father of Major Nicholas Brady, who (by his wife Martha, daughter of Judge Gernon) was father of the Rev. Nicholas Brady, who, jointly with Mr. Tate, composed "the metrical version of the Psalms of David, fitted to tunes," which, by an order of William III. made in Council in 1696, was approved of and appended to the Book of Common Prayer. Nicholas Brady left at his death, in 1726, a son, Thomas, who was father of Nicholas William, father of Francis Tempest Brady, who was father of Maziere Brady, born in 1796, the subject of this memoir. In 1812 he entered Trinity College, Dublin, and in 1814 became a Scholar of the House. His poetic talents having won for him the Vice-Chancellor's prize, he took his Bachelor's degree in 1816, and in 1819 was called to the bar. Although the whigs were then, and had been since 1807, in opposition, he yet joined their ranks, and became an advocate of Catholic emancipation. His knowledge of law soon obtained for him business on the north-east circuit, to which he belonged. Years went on, and it was not until 1830 that the whigs returned to power.

His well-known advocacy of liberal principles brought him under the notice of Louis Perrin, who, in 1833, had him appointed one of the commissioners whose report on Irish municipal corporations afterwards fructified in the destruction of those nests of corruption, the unreformed corporations of Ireland. In 1837 he became Solicitor-General; in 1839 Attorney-General, and in 1840 Chief Baron. The Court of Exchequer was then a court of equity as well as of common law, and the practitioners in both those branches of our dual system of law and equity found in the judgments of the Chief

Baron much to recommend him as a painstaking, learned, and astute reasoner. He was a model judge at Nisi Prius—expeditious, without undue haste, he gave universal satisfaction during the six years in which he filled the office of Chief Baron. Indeed, his tastes inclined him to a court of law rather than of equity. There were the bustle of the circuits, the meeting with the bar, the fun of Nisi Prius, and the drollery of Irish witnesses. One of his anecdotes had ever-increasing amusement for him, connected as it was with the apprehensions which it was said conscientious men must have in defending a client in an unjust cause. Considerations of this nature seldom, he thought, weighed with learned advocates; it was for them to assist in the investigation of truth, and if people were able before a case was investigated to decide who was right, why there would be no need of tribunals to conduct the investigation. This doctrine was illustrated by the observation of as rude a specimen of humanity as ever made a philosophical reflection. At the Spring Assizes of 1846, the Chief Baron was presiding in the criminal court at Clonmel, when a rough-looking fellow, of some eighteen or twenty years of age, shoeless and hatless, was placed at the bar, charged with stopping her Majesty's mail car, with intent to rob the same, on the Fethard road. When asked whether he was guilty or not guilty, his reply was, "How can I tell that, your lordship, till I am tried?" The Chief Baron was infinitely amused at the answer, especially as the Crown failed to identify the prisoner, who, much to his own astonishment, was acquitted!

On the breaking-up of the tory administration in 1846 a vacancy occurred in the Court of Chancery. Sir Edward Sugden retired, and the question arose who was to succeed him. In the temper of the Irish bar at that moment, a foreigner would be unacceptable to them, and more unacceptable still to the general public. Lord Campbell's re-appearance in the Irish Court of Chancery would awaken the passions which had been slumbering for years. Pigot was Attorney-General, and was, according to ancient usage, entitled to the first vacancy; but he was a Catholic, and the bench of the Court of Chancery was closed against him. The Seals were then offered to the Chief Baron, nor did he, without much persuasion, consent to leave the Exchequer. He was, however, persuaded. He became Chancellor, and Mr. Pigot was made Chief Baron.

One of the first of the political acts of the new Chancellor was the restoration to the commission of the peace of all the "repeal" magistrates who had been superseded by Sir Edward Sugden. Assiduous in his attendance at the Privy Council in the years of famine which succeeded 1846, his hands were kept continually full of business. The outbreak of 1848 threatened

to involve the country in the horrors of civil war, as it had been involved in those of famine. The action of the Young Irelanders in the Repeal Association, it was said, had hastened the end of O'Connell, whose mission had been that of peace, while their mission was to carry by the sword what he had failed to win by constitutional means. Soon after the conclusion of the State trials of 1848 an association known as the "Irish Alliance" was inaugurated. Sympathy with William Smith O'Brien and with the exiled patriots was their motto. A meeting of this association was held on the 20th of November, 1849, at which a Dr. Grattan, a justice of the peace for the county of Kildare, presided. The speeches, which were reported in the Dublin morning papers, were of an inflammatory nature, and the Chancellor, fastening the responsibility on the chairman of the meeting, caused the following to be addressed to him :—

“ *Secretary's Office, Court of Chancery,
Dublin, 23rd Nov., 1849.* ”

“ SIR,—I am desired to inform you that the attention of the Lord Chancellor has been directed to the report contained in the number of the *Freeman's Journal* herewith enclosed, of the proceedings of an assembly at which you are reported as having presided, on Tuesday the 20th instant, described as an aggregate meeting of Irish nationalists.

“ By the report it appears that speeches were made at the meeting testifying warm approval of the conduct of several individuals who are now under sentence of transportation as having been convicted of the crimes of high treason and felony, avowing sympathy with and direct participation in the acts and designs for which those persons were brought to trial, and manifestly pointing to the end which they had sought to accomplish by the criminal proceedings of which they were found guilty, as that for the attainment of which the association projected at the meeting, and called the ‘Irish Alliance,’ should be established; that these speeches, especially in their allusions to those individuals and to their designs; were received by the assembly with loud demonstrations of applause, and that no steps were taken on your part to prevent the continuance of such addresses, or in any way to express your dissent from the views and opinions that were so proclaimed; but that, on the contrary, you joined in the association thus recommended, and are named as one of a committee to manage its affairs for the ensuing month.

“ The Lord Chancellor has directed this communication to be made to you as a magistrate of the county of Kildare and of the King's County, in order that you may offer such observa-

tions as you shall think proper on the matters to which it refers.

"I have the honour to be, sir, your obedient Servant,

"F. W. BRADY.

"*R. Grattan, Esq., M.D.*"

Doctor Grattan, in reply, admitted the accuracy of the report, justified the speeches, and applauded the inflammatory language, and he was accordingly removed from the commission of the peace.

With the change of ministry in February, 1852, the Chancellor resigned the Seals, to be restored, however, before twelve months had elapsed. Thenceforward until 1857 his time was occupied with duties of a judicial nature. The province of Ulster was in that year much disturbed by what were, by an abuse of the word, termed "religious riots;" which means simply that the Orangemen assembled annually in July, under Orange banners; and then, headed by martial music, made an onslaught on their Catholic neighbours, while those Catholic neighbours, inflamed with zeal not to be surpassed, made, at other seasons, similar onslaughts on the Orangemen. The Lord Chancellor, feeling that such a state of things was more suited to the savagery of Africa than to a civilized country, resolved to discourage, as much as in him lay, the repetition of such scandalous scenes. He accordingly addressed the following letter to the Marquis of Londonderry, Lieutenant of the county Down, in reference to the magistracy of that county:—

"*Mount Stewart, October 6, 1857.*

"MY LORD,—In reference generally to appointments to the commission of the peace for the county of Down, and some other counties in the north of Ireland, I feel obliged, by recent events, to introduce conditions which seem to me imperatively called for, with the view to the maintenance of public tranquillity.

"Your lordship is, no doubt, well aware of the scenes of turbulence and riotous outrage which have so long prevailed in the town of Belfast. Whatever party may have been to blame for the acts which more immediately led to these disgraceful tumults, it is very manifest that they have sprung from party feelings, excited on the recurrence of certain anniversaries, which for years have been made the occasion of irritating demonstrations, too often attended by violations of the public peace, and dangerous, and sometimes fatal, party conflicts. The Orange society is mainly instrumental in keeping up this excitement; and, notwithstanding the proceedings respecting that association, which are now matters of history, and in consequence of which it was supposed that it would have been finally dissolved, it still appears to remain an extensively-organised

body, with but some changes of system and rulers, under which it is alleged to be secure from any legal prosecution. However that may be, it is manifest that the existence of this society, and the conduct of many of those who belong to it, tend to keep up, through large districts of the north, a spirit of bitter and factious hostility among large classes of Her Majesty's subjects, and to provoke violent animosity and aggression. It is impossible rightly to regard an association such as this as one which ought to receive countenance from any in authority who are responsible for the preservation of the public peace; and however some individuals of rank and station, who hold Her Majesty's commission, may think they can reconcile the obligations of that office with the continuing in membership with the Orange society, it does appear to me that the interests of the public peace, at least in the north of Ireland, now require that no such encouragement should be given to this society by the appointment of any gentleman to the commission who is, or intends to become, a member of it.

"Intending the rule to be of general application, I think it right to ask from every gentleman the assurance that he is not, nor will, while he owns the commission of the peace, become a member of the Orange society. I think it right to inform your lordship that, in expressing the foregoing opinions and determination, I do so with the entire concurrence of his Excellency the Lord Lieutenant.

"MAZIERE BRADY, C."

The determination of the Chancellor to weed the magistracy of the county Down of Orange justices met with the hearty approval, not only of the Liberal but of many of the Conservative newspapers.

In 1858 Maziere Brady went out of office with his party, and was succeeded by Sir Joseph Napier, but was again Chancellor in 1859, and remained in undisturbed possession of the woolsack for seven years. On the 19th of June, 1866, Lord Dunkellin carried a vote against the government on the Reform bill, and on the next day Lord Russell, in the House of Lords, announced that the Liberal ministry had ceased to exist. On the 28th of the same month Lord Chancellor Brady sat for the last time in the Court of Chancery. The last case on his list having closed:—

Mr. Brewster, Q. C.—whose promotion was now certain,—anxiously asked if his lordship had finished his list. The Chancellor replied that he had.

Mr. Brewster, Q. C., then, as reported in *The Irish Times* of the next day, in a state of great agitation, spoke the following:—"My lord, I have been requested to state to your lordship, in consequence of events that have lately occurred elsewhere, that

it is the wish of the bar that your lordship would give them an opportunity of expressing their esteem and kindly feelings towards your lordship, and I need not add that I shall do so in one sense with great pleasure ; but I do not think that I should do so under the present circumstances, but we shall all be greatly disappointed indeed if your lordship does not kindly give us the opportunity of bidding you good-bye."

The Lord Chancellor, who appeared very much affected by the expressions of respect and kindly feeling exhibited to him by the bar, replied that he would very gladly indeed comply with the request made by Mr. Brewster.

The bar then rose from their seats, and remained standing whilst his lordship descended from the bench.

The ex-Chancellor spent the remainder of his days in comparative retirement with his family. His mind was, however, so well stored with learning on natural history that his idle hours could never press heavily upon him. When at the bar he became director of some mining companies, and then acquired a knowledge of the sciences of geology and mineralogy, which he afterwards cultivated with the greatest assiduity. His geological specimens he arranged with the greatest care. Conchology was a favourite study of his, and he devoted much time and expense to collecting the rarest of shells.

To the Senate of the Queen's University, of which he was Vice-Chancellor, he gave the most unremitting attention. He was also for very many years one of the most active and zealous members of the Board of National Education.

He added to his other tastes an earnest enthusiasm for the art of painting, and it is mainly owing to his exertions that the National Gallery of Painting was established in Ireland.

In 1869 the learned ex-Chancellor was created a baronet by the government of Mr. Gladstone. Little time, however, was then left to him to enjoy the honours he had won. On the 11th of April, 1871, he breathed his last at his house, No. 26, Upper Pembroke-street, Dublin, and on the 18th his remains were consigned to the tomb in Mount Jerome cemetery. A handsome monument in white marble has been erected to his memory, over against the south wall, in the south transept of St. Patrick's Cathedral. His career was remarkable for its steady, consistent, and unswerving integrity. He was gifted with strong common sense, a firmness of purpose, plainness of speech, and sincerity in friendship, not forgetting those whom he knew in earlier and less distinguished years. Courteous, affable, and approachable at all times, his fine common sense made him considerate for the feelings of others ; he neither chilled those who approached him by affected superiority, nor embarrassed them by pompous dignity. Hard work and an honest discharge of

duty were his mottoes. The Irish Equity Reports, Irish Chancery Reports, and Irish Jurist are full of cases that well illustrate Sir Maziere Brady's judicial career. The case of *M'Carthy v. M'Carthy*, reported in the ninth volume of the Irish Equity Reports, was one that excited much interest at the time (1846), on the question of the rights acquired by convents through deeds executed by nuns under the vows of obedience. His judgment in that case has never been appealed from. The late Lord Westbury was a great admirer of his, and constantly corresponded with him; one of his letters, when he was Solicitor-General, dated 7th January, 1855, was in great part conversant with the Incumbered Estates Court, Ireland—the future of a Landed Estates Court, and of registration of title—he thus concludes:—"I trust to see those objects accomplished:—

"First,—The title to estates put on such a footing that an estate may be sold as readily and expeditiously as a sum of £100 consols.

"Second,—The Ecclesiastical Courts abolished, and their jurisdiction exercised by the civil tribunals in a simple form.

"Third,—The consolidation of the statute law, and the establishment of a better system for the construction.

"Fourth,—The abolition of that absurd anomaly, the distinction between legal and equitable justices, which has created in England and Ireland two orders of legal minds, each of which is somewhat incapable of understanding the principles of the other.

"Fifth,—The establishment of a very enlarged system of legal education, the union of the bar in England and Ireland, and the consolidation of the Inns of Court in London and Dublin in one university.

"These are the subjects on which we are much engaged here. Pardon me for inflicting upon you so long a letter, but I have been anxious to avail myself of the privilege of writing to you, by referring to subjects on which I much wish that there should be free communication and discussion between lawyers in England and Ireland. If you think any use can be made of my letter, pray do so, and believe me, my dear Lord Chancellor,

"Your much obliged and grateful

"RICHARD BETHELL."

During the many years that Sir Maziere Brady presided in the Court of Chancery, there were twenty appeals only taken from his decisions. Of these, twelve were affirmed, seven were reversed, and one otherwise disposed of.

The deceased baronet was twice married; first, in 1823, to Eliza (died, 1858), daughter of Bever Buchanan, Esq.; and, secondly, in 1860, to Mary, daughter of the Right Honourable

John Hatchell, Q.C. By his first marriage he left two sons and three daughters, viz.: Francis William, Q.C., Bart., County Court Judge, married to a daughter of Doctor Kyle, late Protestant Bishop of Cork; Maziere John, Barrister-at-Law, married to a daughter of the Rev. Robert Longfield, of Castle Mary, Co. Cork; Eleanor, wife of the Rev. Benjamin Hale Puckle, Rector of Grafton, Hunts; Charlotte Louisa, married to the Rev. John Brady, Rector of Slane, Co. Meath, and Eliza Anne.

115. A. D. 1852.—FRANCIS BLACKBURNE. This family in the old times were known as the Blake-bournes. They were settled in the county of Westmeath at the close of the sixteenth century, and they appear, after the restoration of Charles II., to have crossed the Shannon, and to have had landed estates in Roscommon, of which county Andrew Blackburne was high sheriff in 1698. We meet them in the next century at Mooretown, in the county of Meath, where Charles Blackburne was resident on his paternal estate in 1729. This Charles was father of George, whose son Richard was father of Francis, of whom we now write. This last was born at Footstown, in the county of Meath, on the 11th of September, 1782. His early education was commenced at a school kept by a Protestant clergyman named Nelson, in the village of Dunshaughlin. In the troubles of 1798, a conspiracy to attack Footstown House having been discovered, the Blackburnes wisely fled to the city of Dublin for protection, and here Francis was placed under the tuition of the Rev. William White. It has been observed that the "dull child makes the bright man, and the bright child the dull man." Francis Blackburne as a child was dull, and his mother in a letter to a relative speaks of "his want of aptitude and slowness of learning." His mind, however, soon opened, and in Trinity College he became a Scholar of the House, took the gold medal, and obtained a premium for his extraordinary classical attainments; while in the College Historical Society he was rewarded with gold medals in oratory and in history. In 1805 he was called to the bar, and joined the Home Circuit, where he soon acquired the reputation of being a sound lawyer, and accordingly we find him in a short time engaged in a fair amount of business, especially in his native county. Sensational cases on circuit were then few and far between. Mr. Blackburne was, however, engaged in a case of a sensational nature, which was tried at Trim, before Mr. Justice Daly, the going judge of assize in 1817, which excited the most intense interest. It was the trial of Mr. Roger O'Connor, a member of the bar, a magistrate for the county of Meath, and nephew to Philip Lord Longueville, for the robbery of the Galway mail-coach, on the night of the 2nd of October, 1812, as it was proceeding on its journey from Dublin to Galway. The mail bags were cut open and

flung into a ditch on the road side, and a sum of £4400, which was on its way to the fair of Ballinasloe, was divided amongst the robbers, while the unfortunate guard fell from his seat mortally wounded. Mr. O'Connor, nearly five years after this atrocious outrage had occurred, was arrested, and true bills having been found against him by the grand jury, was put upon his trial. Serjeant Jebb and Mr. Jameson appeared as counsel for the Crown, while Mr. Wallace, K. C., and Mr. Blackburne were for the prisoner. Mr. O'Connor had been, since 1807, resident at Dangan Castle, said to be the birthplace of the Duke of Wellington. The coach, drawn by four spirited horses, left at a quarter before seven in the evening the General Post-office, which was then, and up to 1818, in College-green, Dublin. They proceeded at their usual rapid pace through the counties of Dublin and Kildare, and near the Nineteen-mile House entered the county of Meath. The sound of the horn and the ring of the horses' hoofs gave the highwaymen ample notice that the mail coach was rapidly approaching, and ascending Cappagh-hill the coach was stopped at the turnpike-gate, which was closed and tied with ropes. Shots were fired, and the guard lost his life, as we have said; the mail-bags were then scattered, and some were found in Dangan-demesne, and were forwarded to the General Post-office by Mr. O'Connor, to whom no suspicion attached. Five of the gang were afterwards arrested for endeavouring to pass Bank post-bills which had been posted on that evening in Dublin; they were convicted and hanged, but refused, though an offer of pardon and rich gifts were promised to them, to disclose who their leader was, or who their confederates were.

Five years later, a prisoner named Owens, in Kilmainham, who was under sentence of death, revealed to his spiritual adviser that he could tell the names of some of those who had been concerned in the robbery of the mail. The clergyman advised the wretched man to disclose all he knew of the transaction, and he did so, and the solicitor of the Post-office, a Mr. Thompson, attended at Kilmainham, and the result was that Mr. O'Connor was arrested, and put upon his trial. Beside him at the dock sat Sir Henry Meredith, a baronet, and the well-known lawyer Leonard M'Nally, both ready to give, and did give, their testimony as to his character. To the jury it appeared incredible that a man of his position and wealth would sacrifice all for the sake of a wretched sum of money that was in no way needed by him. He was accordingly, amid deafening cheers, acquitted. The judge shook hands with him, and he exclaimed that the pride of that hour was worth all he had suffered.

Mr. Blackburne's position at the bar now entitled him to a silk gown, nevertheless, he was not appointed one of His Ma-

jesty's counsel until 1822, in which year he was commissioned to act as judge, *pro tem.*, under the Insurrection Act, for the county of Limerick, which, with Cork and Clare, were placed under its provisions. In this unconstitutional court prisoners could be tried, without the aid of grand jury or jury, for the offences of being out of their houses longer than an hour after sunset, or an hour before sunrise; for attending unlawful assemblies, for riots, for insurrections, and for divers misdemeanours, for all of which he was empowered, if he, sole judge of law and fact, found the accused guilty, to punish with fine or imprisonment, or with transportation even for life. During two years Mr. Blackburne presided fairly in that odious court, tempering justice with mercy.

The records of crimes in the early years of the present century are painful evidences of the wildness of the people and of the injustice of the laws then in force: 300 prisoners at the Summer Assizes for 1824 awaited their trial in the jail of Clonmel! 20 prisoners, at the Summer Assizes for 1878, awaited their trial in the same jail! Chief Justice Bushe and Mr. Justice Johnson were the going Judges of Assize for the county of Tipperary, in the month of August, 1824, and it was the Chief Justice who tried that case whose very name would harrow up the soul, "The burning of the Sheas."¹

"Oh, horrible! Oh, horrible! Most horrible!"

Sergeant Lloyd, Mr. Blackburne, K. C., and a number of others were counsel for the Crown; while the prisoners were defended by Mr. Hamilton, the great criminal law lawyer of the Leinster Circuit, and by Mr. Hatchell. The crime for which the prisoners William Maher and Darby Maher were charged was the murder of Patrick Shea and others named in the indictment. It appeared that in a gloomy glen, at the base of the mountain of Slievnamon, there lived a farmer named Patrick Shea, who had an undertenant whose name was William Gorman. Without any motive that could be assigned, other than a desire to get the land into his own possession, he capriciously ejected Gorman (whose rent had been punctually paid), tumbled his cabin, and, without compensation, sent this unfortunate man and his family adrift on the world. "Vengeance is mine, saith the Lord," but Gorman was resolved to be himself avenged. Secret societies, the plague of every country in which they have existence, took the matter up, and it was resolved that Shea should die, and not alone Shea, but that his wife and his sons and his daughters, and his man servants and his maid servants, and the strangers that were within his gates—that all—all should perish in one

¹ *Waterford Mail*, 21 August, 1824.

pool of blood. On the 19th of November, 1821, there were in Shea's house many people, numbering in all eighteen, amongst whom was one who was about to become a mother. On the night of that day they retired to rest—the windows were protected by Venetian shutters, closed from the outside, and all of them were provided with bolts, so that they could be fastened alike from without and from within—the hall and kitchen doors opened inwards, but were furnished externally with hasps for padlocks, so that they might be padlocked from without. The silence of that night was unbroken until “the glow-worm showed the matin to be near,” and then the house was silently surrounded, and the doors and shutters were all secured on the outside, so that if ingress was impossible from without, egress was made impossible from within. Firearms were there in great plenty; and there were strong men there to use them, but the men were imprisoned, and their prison-house was on fire!—escape was impossible. The house was thatched, and into the thatch burning coals were thrust. The shrieking of the imprisoned, the crackling of the flames, the scorching heat of the sheet of living fire, as it shone out with a dazzling brightness against the murky and starless sky, must have filled the minds even of the clustering savages with inexpressible horror—one of the witnesses swore “that that night became as bright as the day.” The morning then broke, but the level rays of the rising sun were unable to pierce the clouds of black smoke that still stifling rose from the smouldering ruins. Seventeen bodies were heaped on top of each other as they struggled to open the fastened door. But where was the eighteenth? She was found close to a tub of water, with her infant child that had been born amidst the flames, and it was thought by those who saw their position, that she had crawled to the water for the purpose of baptizing her infant that had just entered, and was just leaving, the world! Such was the crime for which the prisoners were indicted. Their counsel struggled to break down on cross-examination the witnesses for the Crown. One of the witnesses, Mary Kelly, identified the prisoners; she saw them from behind a hedge, and was looking on, when they put the fire into the thatch; she saw the conflagration, but did not speak a word of it for twelve months, when she told the parish priest, who commanded her to acquaint a magistrate of the facts. She did so, and immediately the prisoners were arrested.¹ Other witnesses were examined, who also identified the murderers, and were unshaken in their testimony. These, too, had not previously disclosed their knowledge of the crime, because they feared the vengeance of the secret societies.

¹ *Saunders's News-Letter*, August 31, 1824.

For the defence, Philip Ryan, a tailor, swore that Darby Maher slept in the same bed with him on the whole of that night, and could not have left the bed without awakening him. Other witnesses also sought to prove an *alibi*, but the jury nevertheless found the monsters guilty. They were hanged on the next day.

The state of this country in 1825 became the subject of an inquiry in the House of Commons. In answer to the question put to Mr. O'Connell, "Have any gentlemen that were junior to you been appointed King's Counsel?" he replied, "Very many; I do not know any junior who is put over my head has as much business as myself. Many men of inferior capacity are promoted over my head. I do not complain of the promotion of men of ability. There is Mr. Blackburne; he is my junior, certainly high in his profession; but his promotion could never create a jealousy in my mind, as he is one of the best lawyers at the bar."

Mr. Blackburne, in 1826, was rewarded with a serjeantcy by the tory government; and again, in the month of February, 1830, the same party conferred further distinctions upon him, by entrusting him with an inquiry into those party riots by which the north of Ireland was then, as in later years, disturbed.

Serjeant Blackburne had hitherto served in the tory camp of Lord Liverpool, the Duke of Wellington, and the Marquis of Wellesley, statesmen opposed to the reform bill. It now came to his turn to serve in the opposite camp of the whigs, and under the leadership of Earl Grey and of the Marquis of Anglesey, who had pledged themselves to carry the reform of parliament at all hazards. In the month of November, 1830, the Duke of Wellington, the leader of the party with whom the learned serjeant had theretofore been associated, resigned office. Earl Grey was sent for by his Majesty King William IV., and immediately proceeded to form a ministry; and, amongst the appointments, Lord Plunket was created Lord Chancellor of Ireland, and Serjeant Blackburne Attorney-General. This latter selection by the whigs does not at all prove that he himself had joined their party, but rather proves that the appointment was made to conciliate the tories; and we are borne out in this view by the judicial appointments made by the new ministry on their accession to power. Two vacancies having occurred on the bench, Messrs. Joy and Doherty, the former Attorney-General, and the latter Solicitor-General, under the late government, were created, the one Chief Baron of the Exchequer, and the other Chief Justice of the Common Pleas.

The change of ministry in 1830 inspired the repeal party

with the delusive hope that as the whigs were in office they would abolish the tithes, overturn the Protestant Church, and do much that they promised when out of office to do. One of the very first acts, nevertheless, of Lord Anglesey, after his arrival in Dublin, was an avowal of his determination to put down agitation, and to suppress illegal associations. But he was met at every step by O'Connell, by whose ingenuity the Repeal Association, if we may so call it before its time, lived on under a multitude of different names. If a proclamation were issued in the morning, putting down "The Society of the Friends of Ireland," at noon O'Connell dissolved it, and in the evening the same body appeared under another name, "The Anti-Union Association." This association was also proclaimed and dissolved, and was immediately succeeded by the "Irish Volunteers for a Repeal of the Union." The agitation for a Home Parliament went on, increasing in strength, as it went, and Daniel O'Connell was the vivifying spirit of the movement. Untiring in his efforts, in season and out of season, in the House of Commons and on the platform, by his pen as well as by his voice, he advocated the great principle which he considered essential to the well-being of his country.

The great majority of the citizens of Dublin, throwing their whole heart and soul into the movement, determined to support him in the struggle. They therefore resolved to fete him whom they styled "the man of the people;" and it was accordingly arranged that, on the 27th of December, 1830, a great meeting and procession should take place. The bands of music of the several guilds were to meet at Phibsborough, on the north side of the city, and were to march thence through the principal streets to Mr. O'Connell's residence in Merrion-square, on the south side. A Privy Council was held at the Castle, which was attended by the Lord Lieutenant, the Lord Chancellor, the Attorney-General (Blackburne), and others, when it was resolved that both meeting and procession should be put down by proclamation. Mr. O'Connell advised the people not to meet, and counselled them to remain quietly in their homes on that day; they did so, but this was the beginning of a long contest between the agitator and the Lord Lieutenant. If, on the one side, his Excellency was guided by the advice of the Attorney-General, the repeal party was guided, on the other, by the advice of Mr. O'Connell. His next ingenious device for a repeal meeting was, to issue cards for an enormous breakfast party at the Rotunda, but this was also put down by proclamation. The next, and perhaps the most dreadful of the plans that emanated from the fertile imagination of the great agitator, was a counsel to the people to run on the banks. A run followed, the consequences of which were disastrous, in many

instances, to the great mercantile houses throughout the country.

Mr. O'Connell now resolved to set the government at defiance. The several associations which he had started, one and all, had been put down by proclamation. He had, as we have already said, inaugurated a new body, under the title of "The Irish Volunteers for a Repeal of the Union." A Privy Council was held, which was, as usual, attended by the Attorney-General, when a proclamation was issued to put down that body. Mr. O'Connell refused to submit, the grounds of his refusal being that the organisation was legal, and that the proclamation was therefore powerless to suppress it, and he pledged his reputation as a lawyer that it was legal. He therefore held the meeting, and was immediately, together with Mr. Lawless, Mr. Steele, Mr. Barrett, and others, arrested, taken before a magistrate, and held to bail on a charge of having violated the provisions of the "Act for the Suppression of Illegal Associations."

The Attorney-General immediately directed a prosecution, and at the opening of Hilary Term, in the month of January, 1831, bills of indictment, including counts for a misdemeanour in violating the Act, and also for unlawful assemblies, at common law, were preferred against them. Thereupon "true bills" were found by the grand jury of the city of Dublin, in the Court of King's Bench. On the following day a letter appeared in the columns of the *Freeman's Journal*, addressed to the editor, which, though anonymous, was well-known, from its power and its sarcasm, to have been written by Mr. O'Connell himself, and which not alone turned the whole of the proceedings into the most painful ridicule, but accused the government of being actuated in the case by the basest of motives. At the sitting of the Court that morning, the Attorney-General brought the article in question under the notice of the Chief Justice. The letter was, he said, calculated not alone to prejudice any jury that might go into the box to try the question at issue, but to bring the administration of justice into ridicule and contempt. The Court, having heard counsel on both sides, directed an attachment to issue forthwith against the proprietor of the *Freeman's Journal*, who was accordingly arrested and lodged in jail.¹

The Attorney-General then proceeded with the prosecution, and at every turn was harassed by the learning and ingenuity of Mr. O'Connell, whose first step was to demur to the indictment; and when the day arrived for arguing the questions of law, he withdrew the demurrer, and pleaded not guilty. The Term was then nearly over, and the Crown was apparently

¹ Hansard's *Parliamentary Debates*.

thrown out of a trial at bar, or before the full court. But on the last day of Term he withdrew the plea of not guilty, and then pleaded guilty; the consequence was, that all that remained for the Court to do was to pass sentence upon the traversers. But the judges were then unprepared, and, therefore, deferred doing so until the first day of Easter Term, nearly three months off. In the meantime Lord John Russell having been defeated in committee on the reform bill, parliament was, on the 22nd of April, 1831, dissolved, and with that dissolution the Act under which the traversers were indicted expired. Sentence then became impossible, and the indictment fell to the ground. The history of these proceedings is given by the Attorney-General in a letter from him to Mr., afterwards Lord, Stanley, Chief Secretary for Ireland, which was read by that gentleman in the House of Commons, on the 16th of February, 1832.¹

The following year, 1833, was remarkable for the agitation against the payment of tithes to the Established Church. It was in vain that the Protestant clergy alleged that they were the representatives, as well as the successors, of the old Church that had existed in Ireland from the days of St. Patrick. The people declined to accept their services, and refusing their proffered ministrations they also refused to pay them for their uninvited advice on matters spiritual.

The established clergy, reduced to a state bordering on starvation by this conspiracy against the payment of tithes, were constrained to have recourse to legal proceedings. The Rev. Hans Hamilton was then rector of a parish in the county of Kilkenny, and he also insisted on his tithe, but the people were resolved never to pay him a farthing, no matter what the rights of the Church, real or imaginary, might be. A process-server proceeded to the parish to serve the necessary legal documents in the first instance. This functionary was protected by the police on his mission. Angry crowds collected along his line of route—a fight ensued, blood flowed on all sides, and before an hour eleven constables and many civilians were laid dead on the common of Carrickshock.

Intense was the excitement that followed this dreadful carnage, many arrests were made, and many informations sworn, but the chiefs of the movement were never made amenable to the law. Some were committed for the approaching assizes at Kilkenny; but strange to say, out of thirteen one only, a young man named Kennedy, was put on his trial. The Attorney-General (Mr. Blackburne) appeared as leading counsel for the Crown, and Mr. O'Connell for the accused. From the opening of the case it was manifest that no conviction could be obtained. The prisoner at the bar, who, however, had not the

¹ Hansard's *Parliamentary Debates*.

same confidence that his counsel had, frequently interrupted Mr. O'Connell with an imploring whisper, "Do you think will they convict me?" At length the judge commenced his charge to the jury, the prisoner becoming bewildered as his lordship advanced, leant over the dock, and, as the story goes, had the rashness to say, loud enough for the jury to hear, "Oh, Counsellor jewel! do you think, your honour, that they'll hang me?" "Whist," says O'Connell, with a leer, "make your mind *easy*, my friend, on that point; for if they hang you, I promise you, my friend, that I'll make it a dear hanging to them." This consolation, administered in a stage whisper, not only disturbed the gravity of the Attorney-General, but threw the whole Court into shouts of laughter. After the close of the charge, the jury retired, and immediately returned a verdict of not guilty. The prisoner was then about to be put on his trial on another count, but the Attorney-General entered a *nolle prosequi* on the part of the Crown, declaring, at the same time, that he never would be a party to putting a person in jeopardy twice for the same transaction.

The Carrickshock riot was not the only one in which blood was shed during the tithe war. Prosecutions followed prosecutions with great rapidity, and in every case in which a trial was had Catholic jurors were kept out of the box. Lord John Russell, in allusion to the subject afterwards in 1843, thus speaks in the House of Commons: "It is the general practice in Ireland for the Crown to set aside all Catholics and liberal Protestants. In one case Mr. Blackburne set aside forty-three persons, of whom thirty-six were Catholics and seven were Protestants, and all of them respectable men."¹ The injudicious conduct of the government in those prosecutions exasperated the sensitive mind of Daniel O'Connell. The defeats he inflicted on them in the courts of law had immeasurably increased his influence over the people, which was as great as that of Demosthenes in Athens, Cicero in Rome, or Mirabeau in France. His impassioned eloquence produced a greater impression on assembled multitudes than that of any other man of whom we have knowledge. When he harangued incredible gatherings of the people, they seemed to roll to and fro like waves in a storm, under the magic influence of his oratorical powers. In the House of Commons, too, his powers of argument, his ready and original wit, and his invective, though often coarse and personal, obtained for him a ready attention. The same qualities distinguished him as a writer—he addressed a series of letters to the Home Secretary, Lord Dun-

¹ Lord John Russell's speech, 19th Feb., 1843.—Hansard's *Parliamentary Debates*.

cannon, in which he thus writes his opinion of the Attorney-General.¹

"The office of Attorney-General is the most important office in the administration of the government of Ireland—consulted on everything, advising, guiding, directing everything. The Irish government is identified with the Attorney-General. It is not of much importance how the other offices are filled if the Attorney-General be a man of sound principles. The whigs selected for their Attorney-General Francis Blackburne! you know him well. I appeal with confidence to the opinion you must give your colleagues in the confidence of official intercourse. I appeal to your opinion as I would to your oath in a court of justice for the truth of this assertion, that so unhappy and fatal a selection was never yet made.

"Of all the members of the Irish bar, the very worst choice that could have been made by the whigs was that of Francis Blackburne. I care not what other barrister you name, I defy you to name one whose appointment could be more unfortunate for the whigs—that is, if their object was to conciliate the people of Ireland. If, indeed, their object was to provoke and exasperate the people, then indeed they did right to select Mr. Blackburne. They could not possibly have devised any measure more calculated to excite popular resentment and indignation against them. They could not, in short, have better proclaimed hostility against the people of Ireland.

"Why was Mr. Blackburne chosen to be the principal instrument of the whig government? The history of his life seemed to forbid such a choice. It is quite true that he had been successful in his profession, his reputation as a lawyer was considerable—an overrated man certainly, but a man of high standing in his profession; but then he was the most constant and decided enemy of the whigs and of the people. . . . He enrolled himself a member amongst the virulent and vexatious saints of Kildare-place. He was also a constant attendant at those Bible meetings and tract societies at which the religion of the people and the people themselves were the subject of every species of vulgar ribaldry and abuse. He was, besides, the chosen and standing orator of those scenes of good dinners and bad politics—the Corporation of Dublin dinners. You know that these dinners were and are the rallying points of all that was and is violent and bigoted in the Irish metropolis. At these dinners Blackburne filled the station which Shaw now occupies, and his tirade against Pope and popery proved a regular part of each entertainment.

¹ Vide *Saunders' News-Letter*, 4th Sept., 1834, "Letter of O'Connell to Lord Duncannon, dated 30th August, 1834."

"Yet it was this man—fresh from the oratory of bigotry, and from signing the last and worst petition against emancipation—that Lord Anglesey appointed Attorney-General!!! Yes, my lord, it is the very man—the anti-whig, the no-papery orator, the Bible and tract calumniator, the enemy of emancipation—that you Lord Duncannon, you yourself, Secretary as you are for the Home Department—this is the man that you and your present colleagues continue in the office of Attorney-General!!! Oh shame upon you! if in this particular at least you do not give the people of Ireland a proof that you are sincere.

"I need not remind you of the active patronage which your Attorney-General has afforded the most Orange part of the Irish bar. But you, my lord, know him—you know him well; and you must feel that you cannot preserve any species of character unless you, without any delay, either change your Attorney-General or resign.

"As I proceed I will notice his prosecutions—prosecutions contrived to raise a wall of eternal separation between the popular party in Ireland and the ministry. It is true that these prosecutions had the sanction of Mr. Stanley and of Earl Grey; but recollect, it is the faults and crimes of the whigs I am commenting on, and not of their Attorney-General. I blame them for selecting a political enemy both of the whigs and of the Catholic people of Ireland. I blame them for placing in this important post one of the most virulent of the Orange Tories in Ireland. I blame not him for labouring in his vocation and serving his friends, openly as he has done, under the banners of his political enemies and with their authority."

Mr. O'Connell then calls his lordship's attention to the conduct of the Attorney-General in the government prosecutions, and complains of the insults flung by him at Catholic jurors, and he thus hints—and that hint was not thrown away—that the Irish party might be reconciled with the ministry:—

"I appeal to your own common sense whether there be any possibility of reconciling the popular party in Ireland with the ministry, so long as you continue in office so decided a political enemy of both as your Attorney-General.

"I am ready to aid in the perfect reconciliation of the people with the ministry, but I have neither the power nor the inclination to do so unless you will confer on that people not sweet and soft words, but substantial and distinct acts of friendship and protection. Until parliament meets, we require that you will discountenance and dismiss your and our enemies, and that you will be governed by and through your and our friends. Sacred heaven! that it should be necessary to make such a request of any men not confined within the walls of bedlam."

It must not be forgotten that Mr. O'Connell, who now stated that Mr. Blackburne was an overrated man, had previously, in 1825, stated before a committee of the House of Commons that he was one of the ablest lawyers at the bar; and as to his being "the chosen and standing orator" of the old Dublin Corporation, it would appear that he was viewed by it with feelings of dislike, for he had conducted against it a suit in Chancery on behalf of the citizens of Dublin, and after twelve years' contention had succeeded.

An opportunity soon occurred by which the Attorney-General might with dignity retire from office, but his retirement would at that moment have embarrassed the government.

• Mr. Justice Jebb having died, a vacancy occurred in the Court of King's Bench, and Blackburne was, as a matter of course, offered the seat. His patent was actually made out, and it only awaited the royal signature to complete the appointment; but Lord Melbourne induced him to resign his claim in favour of the Solicitor-General, Mr. Crampton, with a distinct promise that he should be promoted to the first vacant chief's place. Blackburne made a mistake. At the close of the same year the whig ministry, divided against itself on the Irish Protestant Church question, was dismissed from office and replaced by Sir Robert Peel, who was entrusted with the task of forming a tory administration. Lord Haddington then became Lord Lieutenant, Sir Edward Sugden Lord Chancellor, and Mr. Blackburne Attorney-General. Thus, on the morning of the 9th of December, 1834, Blackburne was Attorney-General to the expiring whig government, and in the evening of the same day he was Attorney-General to the tory government of Sir Robert Peel.

On the 7th of April following (1835) a hostile vote on the Irish Church again displaced the tories, and Lord Melbourne returned to power as Prime Minister. Mr. Blackburne, however, was no longer Attorney-General. O'Connell's letter was remembered, and Serjeant Perrin was appointed in his stead. No doubt there was Lord Melbourne's distinct promise that he should have the first vacant chief's place; but as "the chief butler forgot Joseph," so Melbourne forgot Blackburne.

In 1835 Mr. Perrin became Judge of the King's Bench. Sir Michael O'Loughlen, in 1836, was made a Baron of the Exchequer, and in 1837 Master of the Rolls, and Richards and Woulfe and Ball were all provided for; but Blackburne was remitted to the bar, and had reason then to lament his assent to the promotion of Mr. Justice Crampton over his head. It had been customary to grant a patent of precedence to ex-Attorney-Generals, but even this barren favour O'Connell would not suffer to be extended to Blackburne.

On the overthrow of the whigs in 1841 the tories, under the leadership of Sir Robert Peel, returned to power, and Blackburne was again Attorney-General. His tenure of this office was, however, short, for in the next year the country mourned the death of one of her most distinguished Catholic lawyers, Sir Michael O'Loghlen, who was, as we have said, Master of the Rolls, and Blackburne was appointed his successor. For four years he held that office, in whose dull routine there is little to chronicle. Passing thence to the Queen's Bench he became Chief Justice in 1846.

With the death of O'Connell in 1847 perished the influence of the repeal association, and the doctrine of moral force was forgotten by those who in 1848 preached open revolution and rupture with England. The Catholic bishops and the clergy, with few exceptions, were opposed to the movement; and it was hard to say what miseries would be entailed on the country if it were not stayed in mercy to the people themselves. John Mitchel was tried before the Chief Justice, and found guilty of writing and publishing a letter exciting the people to rebel, and was transported. In the month of September, 1848, William Smith O'Brien, Thomas Francis Meagher, and others, were tried at a special commission in Clonmel, for high treason, before the Lord Chief Justice, and after a lengthened trial were found guilty, but the sentence of death passed upon them was commuted to transportation. But we are now speaking of what is known to all men and remembered by many. Blackburne was called upon many times during the six years he presided in the Queen's Bench to lend his assistance at special commissions issued for the putting down of crime in various parts of the country.

On the 27th of February, 1852, Lord John Russell's ministry resigned, Lord Clarendon then ceased to be Lord Lieutenant of Ireland, and Maziere Brady to be Lord Chancellor. Of the shuffling of the political cards it is needless here to speak. Lord Derby became Prime Minister, with Benjamin Disraeli Chancellor of the Exchequer, the Earl of Eglinton Lord Lieutenant, and Francis Blackburne Lord High Chancellor of Ireland; and in the same year he was appointed a Commissioner of National Education. The government, however, of which he was a member, falling before the end of that year, he too retired from office, and in the next year, in company with Archbishop Whately and Baron Greene, left the National Board. The cause of the retirement of these three commissioners from the National Board was the exclusion by the majority of that body of two works from the list of text-books—one on the "Truth of Christianity," written by Dr. Whately, Protestant Archbishop of Dublin, and the other "The Scripture Lessons." These

books, which were in use in the national schools almost from the foundation of the system, had been condemned by Dr. MacHale, Catholic Archbishop of Tuam, and the national schools in his extensive archdiocese were consequently suppressed by his grace; nevertheless, those books lived on until Doctor, now Cardinal, Cullen became, in 1852, Catholic Archbishop of Dublin, when, through his influence, they were excluded. The three commissioners we have named immediately resigned.

Blackburne's active mind was now relieved for a time from labour. In 1856, however, he was once more invited, and by Lord Palmerston, to take a seat on the bench. In that year the Court of Appeal in Chancery was constituted, and Mr. Blackburne became the first Lord Justice of Appeal.

In 1858 Lord Derby, on becoming Prime Minister, offered him the Seals, but his health was too much shattered to permit his acceptance of office, and Mr. Napier became Lord High Chancellor of Ireland.

In 1866 the tories, who again returned to office, pressed the Chancellorship once more on Mr. Blackburne. At first he declined the responsibility, but the confidence so long reposed in him made his acceptance a matter greatly to be desired by the government. At length he accepted—unwillingly accepted—the appointment, and he was once more Lord High Chancellor.

The Lord Justiceship, which he had so long filled (and it is in the remembrance of the bar how he did fill that office), became vacant, and Mr. Brewster, one of the ablest of lawyers, became Lord Justice of Appeal.

The year 1867, however, was one that required, in the office of Chancellor, an adviser who could be ever at the Lord Lieutenant's side, counselling him with the wisdom of his counsel. Fenianism, which was then rife, threatened to deluge the country with blood. Large sums of money, arms, ammunition, and even men were sent home from the exiles beyond the Atlantic;—and it was whispered that those audacious men had the properties of the gentry mapped out amongst themselves. Their immediate ancestors were ignorant, but the schools established by landlord influence which were now abroad had opened their eyes, and had uprooted all respect for "his honour" and for "his honour's" family. The Lord Chancellor was physically unequal to the duties of his office, for the weight of eighty-five years was heavy upon him; and he wrote, accordingly, to Lord Derby, placing his resignation in his hands. That resignation was accepted; and Blackburne's public career was at an end.

Shortly after his retirement, a general meeting of the bar was held, at which the following address was unanimously agreed upon:—

“ *To the* RIGHT HON. FRANCIS BLAKBURNE.

“SIR,—The bar of Ireland desire, while they bid you farewell on the occasion of your retirement from the bench, to express to you their feelings of respect and admiration for the great qualities which have distinguished you, and have reflected so much honour upon your profession. The history of your career, extending over more than sixty years, contains a record of which the Irish bar are proud, and which is in many respects without a parallel. In your earlier years at the bar those qualities which had won the great distinctions of your college course raised you to pre-eminence among rivals with whom few could have ventured to compete. Having reached the highest point of professional eminence, and proved yourself a sound lawyer and consummate advocate, public honours and public trust soon followed as the just recognition of your well-earned position. In the discharge of your duties as first law officer of the Crown during times of difficulty, your abilities were ever equal to the occasion, while your moderation and firmness have left an example worthy of imitation. You were then in succession Master of the Rolls, Lord Chief Justice, Lord High Chancellor, and Lord Justice of Appeal. In the history of this country no man ever filled so many high and judicial offices, and brought to the discharge of each such great and varied powers. Calm and impressive dignity, great grasp of mind, unequalled sagacity, and a rare faculty of clothing thought in clear and simple language, conspicuously marked your administration of the law. Your uniform courtesy and kindness will be long remembered by us all, and you bear with you into retirement the sincere good wishes of every member of the Irish bar.

“Signed for the bar of Ireland, in pursuance of a resolution unanimously adopted at a meeting held in the Law Library, Four Courts, Dublin, April 24th, 1867.

“ROBERT D. MECREDDY,

“Father of the Bar.”

Blackburne's reply was as follows:—

“It is with feelings of no ordinary character that I reply to your address, so kind, so touching—I would add so affectionate; and it causes me no little difficulty to find words to give adequate expression to them. It affords me the deepest gratification to receive from the bar of Ireland such a recognition of my services, when I consider its worth, its learning, and its proud character. In your feeling address you allude to the several high offices which I from time to time have filled, by favour of the Crown, and to the mode in which their attendant duties were performed. I can only say that in the discharge of those duties I felt that a sacred trust was committed to my keeping,

and that a strict regard to the interests of justice and to the welfare of our country, and perfect impartiality between man and man, should be my guiding principles of action.

“In bidding you farewell at the close of a long professional career, I cannot do so without in the fullest manner reciprocating the kindly sentiments which your address contains, and wishing you, my friends, a long enjoyment of life and happiness, and of success in the noble profession of which we are members. I had hoped to have had the great pleasure of being able to receive your address in person; but I deeply regret that, owing to my lengthened illness, I am unable to do so, and must therefore send to the Father of the Bar the reply which I should have so much wished to deliver in person.”

*Such a unanimous expression of feeling on the part of the bar was almost without precedent. Men of all shades of opinion for once merged their differences, and united in paying their tribute of admiration and esteem to one so universally and deservedly respected.

He had filled during his long life more offices than any other lawyer on record. For many years Vice-Chancellor of the University of Dublin, he took great interest in everything appertaining to the success of that seat of learning, where he received his early education. He was also a member of the Senate of the Queen's University. Devoted to the principles of the Reformation, he was associated with Lord Derby (then Mr. Stanley) in preparing the Tithe Rent-charge and the Church Temporalities Acts. His advice was frequently asked by the government during troubled times, and was as often acted upon. While at the bar the chief characteristic of his style was brevity—in cross-examination he was very skilful, never using that overpowering loudness of tone and violence of language which sometimes succeed in breaking down a dishonest witness, and sometimes disconcert an honest one.¹ Mr. Blackburne rather used his dexterity in leading on a witness, by cautiously and calmly putting questions calculated to commit him, and bringing him, from point to point, to the statement at which he wished to arrive. On the bench he was all that could be desired in an equity and common law Judge; and as a proof of the estimation in which his judgments were held, not merely in Ireland but in England, we refer to the opinion of Lord Justice Turner, who, in giving judgment in the case of *Hawkins v. Gathercole*,² says:—“In the former of these cases the late Master of the Rolls in Ireland, Mr. Blackburne, the weight of whose judgments cannot be too highly spoken of, expresses himself thus.” His judgment in the case of *Box v. Jackson*, in Drury's Reports,

¹ *Irish Law Times*, vol. i., p. 55.

² 6 *De Gex, M'Naghten, & Gordon's Reports*, p. 25.

is a memorable one, in which the doctrine applicable to the rights of married women over their reversionary interest in personal chattels was reviewed and discussed. "His decisions," it was said by a high authority, "were clear and logical."

His death occurred on the 17th of September, 1867, at Rathfarnham Castle, near Dublin, he being then in his 86th year. Mr. Blackburne was married in 1809, to Jane, daughter of William Martley, Esq., M.D., of Ballymullen, county of Meath, and by her left issue six sons and three daughters.

116. **A.D. 1857.**—SIR JOSEPH NAPIER, Baronet. Amongst the Scottish chieftains who, in 1296, tendered their allegiance to Edward I. of England was John de Napier, ancestor of the Napiers of Murchinstoun, near Edinburgh, a family that has since produced men great in the senate, at the bar, and in the army. Many of them have been famous in the universities, and to John de Napier mathematical students are indebted for the discovery of logarithms. A descendant of this remarkable family settled in the north of Ireland in the last century, and from him descended William Napier, the father of Joseph, who was born on the day after Christmas-day, 1804. His early education was committed to the care of a private tutor, who was no other than the great dramatic writer James Sheridan Knowles. From his tutelage he was sent to the Belfast Academical Institution, then recently founded, where he was well grounded in classics and the kindred sciences. In 1820 he entered the University of Trinity College, and before the termination of his Junior Freshman year published a demonstration of the "Binomial theorem." In 1825 he took his degree as Bachelor of Arts, and immediately commenced to read for a Fellowship. During the intervals of severe study he cultivated his tastes for polite literature, and contributed much to the principal periodicals of the day. He also became an active member of the Historical Society, which then held their weekly meetings outside the walls of the College.

The political views which young Napier had acquired in College were those of the high tory and anti-Catholic school; and accordingly we find him, when yet young, ranged with the opponents of the Catholic emancipation. His first political speech was delivered against that measure, at a meeting of the graduates held in Dublin, on the 28th of October, 1828. He now abandoned the idea of reading for a Fellowship, and entered his name on the books of one of the Inns of Court in England, and became a pupil at the law school of the London University, then recently instituted, where he attended the lectures of Mr. Amos, afterwards the learned author of a work on fixtures. He afterwards entered chambers as a pupil of Mr. Patteson, and on

the promotion of that celebrated lawyer to the bench, Mr. Napier commenced to practise in London as a special pleader. In Easter Term, 1831, he was called to the Irish bar, and chose for his circuit "the north-east," where he quickly acquired the character of an accurate pleader, a sound lawyer, and an easy, fluent, and classical speaker.

To improve the system of legal training for law students was his earnest aim; for he had seen, with feelings akin to contempt, that no requisite was necessary for a call to the bar other than the eating a number of dinners at the Inns of Court on both sides of St. George's Channel.

Although Mr. Napier, from an early period subsequent to his call, began steadily to advance to the foremost rank in his profession he had not as yet (we speak of 1843) been called within the bar. A case occurred, however, in that year which, while adding to his fame as a lawyer learned in the law of criminal procedure, was the immediate cause of the Chancellor of that day (Sir Edward Sugden) appointing him one of Her Majesty's counsel. The case alluded to was "*The Queen v. Gray*," and it occurred at the Lent assizes of the county of Monaghan. The prisoner, Samuel Gray, was indicted for firing a pistol, "then loaded with leaden shots and gunpowder, at and against one James Cunningham, with intent to do him grievous bodily harm." Such an offence was, by the 85th chapter of an Act passed in the first year of Queen Victoria, declared to be a felony. The grand jury having found "true bills," the prisoner was arraigned for this felony, and Mr. Napier peremptorily challenged one gentleman who was about to be sworn on the jury. The Crown demurred to the challenge, insisting, as indeed had been frequently decided by the Irish judges, that in cases of capital felony only did such a right exist. The judge disallowed the right, the challenged jurymen was with the other jurors sworn, the trial proceeded, and the prisoner was convicted. That jury was, however, according to the prisoner's counsel, illegally constituted, and he therefore moved the Court of Queen's Bench in arrest of judgment. The arguments were heard in the following Easter Term, when Chief Justice Pennefather, Mr. Justice Burton, and Mr. Justice Crampton delivered their opinions in favour of the Crown, Mr. Justice Perrin alone dissenting; and the judgment of the court was thereupon entered against the prisoner. By the advice of Mr. Napier a writ of error was sued out to the House of Lords, and the law lords were unanimous in reversing the decision of the court below. Mr. Napier then returned to Dublin, but his fame as a criminal lawyer was before him, and he was called within the bar during the following Term. His services were sought for both by the Crown and the

prisoner in the ever-to-be-remembered case of "The Queen *v.* Daniel O'Connell." It was a race, so to speak, between the Crown Solicitor and the attorney for the traverser who should be first in retaining him. Both briefs with their enormous fees were sent to his house on the same day, but he was absent in Belfast at the time, and both briefs were sent to him, but the retainer of the Crown Solicitor arrived, and was formally accepted by return of post, before the other retainer, which had not been posted so soon, reached his hands. The Law Society, on being consulted, gave their opinion in favour of the Crown Solicitor, of which Mr. Holmes, the father of the Irish bar, approved. As an equity lawyer Mr. Napier was occasionally brought into notice in equity; and in the Equity and Chancery Reports, as well as in the reports of appeal cases from the courts of equity to the House of Lords, his name is frequently to be met with in some remarkable appeals and cases; of these the most remarkable was the case of Lord Dungannon, Mr. Napier's argument in the House of Lords, reported in the books. It was the admiration of Lord Lyndhurst, and was most emphatically commended by Lord Wensleydale, then Baron Parke. parliamentary honours were not sought for by him until the year 1847, when he contested unsuccessfully the University of Dublin. Mr. Hamilton and Mr. Shaw were elected, but Mr. Shaw was soon constrained by failing health to resign, and Mr. Napier was returned in his stead without opposition.

Early in March, 1848, he took his seat in the House of Commons, and he speedily became an active and working member. His speeches on the abolition of the punishment of death in capital cases, and of the extension of the income tax to Ireland, are well known. He delivered with much earnestness his conscientious opinions on a bill brought into parliament by the Marquis of Lansdowne, for the establishment of diplomatic relations with the court of Rome, a measure against which he protested "as likely to irritate the feelings of the Protestants of Ireland." Of the Protestant Church he was ever the unflinching advocate. In 1849 he struggled to maintain the principle that the successive failures of the harvests in Ireland should be regarded as a national rather than as a local calamity: "the calamity," he urged, "was providential, and the charge consequent upon relieving her from it should be borne by the kingdom generally." And in opposing the rate in aid (as it was called), he made a remarkable speech, which was highly praised by the late Sir Robert Peel, who followed him in the debate, for its ability and moderation.

Amongst the ministerial measures of 1849, not the least remarkable was that introduced by Lord John Russell for the emancipation of the Jews. That measure met with the opposi-

tion of Mr. Napier. Many able and earnest men shared in his views, for it is not easy to fling away the traditions of centuries; and though we may dissent from his conclusions, we must still respect the zeal and honesty of purpose by which they were dictated. To another ministerial measure, the legalisation of marriage with a deceased wife's sister, he offered his strenuous, and then successful, opposition. The next important measure bearing on the internal government of Ireland, which emanated from the ministerial council, and which was patriotically opposed by Mr. Napier, was a bill introduced on the 18th of May, 1850, by Lord John Russell, for the abolition of the Lord Lieutenancy of Ireland.

The sudden death of Sir Robert Peel, in the summer of 1850, cast over the House of Commons, as over the nation, a deep and lengthened gloom. Mr. Hume moved the adjournment of the House, paying a feeling tribute of regret to the deceased statesman; Mr. Gladstone, Sir Robert Inglis, and Sir William Somerville, in eloquent terms concurred in the proposed mark of respect. "As I," said Mr. Napier, "have a motion on the paper, I may be permitted to say how willingly I waive everything, to join in testifying, in any manner I can, my sorrow and regret for the loss which the country has sustained. It is a remarkable circumstance that a large portion of these legislative measures, to which I was about to ask the attention of the House, have been suggested by the legislative wisdom of that great man who has just been gathered to his fathers. The impulse and encouragement which he has given to measures of legislation in connexion with the criminal jurisprudence of this country, and the records he has left behind him of his enlightened wisdom on that important subject, entitle him to the gratitude, and will ever claim the unanimous respect, of all classes of the community. When the news came to me of his death, and when I reflected how short was the period since I had beheld him in the full vigour of a matured intellect—chastened but not impaired by age and experience—I was reminded what shadows we are, that the life of the wisest and strongest of us is but a wavering flame which the passing breeze may extinguish."

Upon the resignation of Lord John Russell and his colleagues, in the month of March, 1852, the Earl of Derby became Prime Minister, the Earl of Eglinton Lord Lieutenant of Ireland, Francis Blackburne Lord Chancellor, and Mr. Napier Attorney-General. One of his first acts, foreshadowing as it were the changes in the law of landlord and tenant that took place in 1871, was to introduce four measures dealing in a large and comprehensive manner with the land question. The first

was a Land Improvement bill; the second, a Leasing Power bill; the third, a Tenant's Improvement Compensation bill; and the fourth, a Landlord and Tenant Law Amendment bill. The merits of these proposed enactments were many; but, before they could become the law of the land, and at the close of the same year, the Derby administration had resigned, and Mr. Napier ceased to be Attorney-General.

Several questions of the deepest interest came in 1853 under the consideration of parliament, and amongst them the Canadian Reserves bill, which was brought in by the Liberal government. The "Reserves" were certain lands reserved to the Protestant Church of Canada, amounting to one-seventh of the entire lands granted out by the government of Canada to the settlers in that colony. The government were resolved that the reserves should cease, and a measure was introduced to that effect. Mr. Napier opposed the bill in all its stages. His resistance, however, proved unavailing, and the measure became the law in the same session.

In 1857, Mr. Napier advocated the principle that there should be in the United Kingdom (as in France and other continental countries) a ministerial department of "Justice;" and, in accordance with this view, he moved for an address to the Crown, praying for the appointment of a law functionary to preside over the department of the Privy Council for the affairs of public justice. The motion was assented to by Lord Palmerston, advocated by Lord J. Russell, and carried; but the dissolution of parliament prevented any further step being then taken in the matter. He also, about this time, carried a motion in the House of Commons for an address to the Crown, for a commission of inquiry into the Inns of Court; out of which the reform of their system emanated in due course afterwards. The general election of that year again brought Mr. Napier before his constituents, and he was again returned with Mr. Hamilton for the University of Dublin. His party, which had been in opposition, with the exception of a few months in 1852, since the fall of the Peel administration in 1846, returned, in 1858, to a short-lived official existence. The Earl of Derby became Prime Minister, and it was intended that the post of Lord Justice of Appeal should be conferred on Mr. Napier, in succession to Mr. Blackburne, who was then Lord Justice, and who was to be restored to the woolsack. Mr. Blackburne, however, was at that time much shaken in health, and signified his determination in consequence not to accept the Seals, which were thereupon offered to, and reluctantly accepted by, Mr. Napier. In the following year he was elected president of the jurisprudence section of the Association for Local Science. Their meeting was held in Liverpool, but his lordship was unable to attend its deliberations, and

his written address was read for him by Earl Russell. In the month of June, 1859, the Conservative government resigned, and Mr. Napier ceased to be Chancellor. A wish was then expressed by many of his friends, as well in England as in Ireland, that a selection from his decisions in Chancery should be made, and published in a separate volume, and his friend Mr. Drury accordingly undertook the office of editor, and selected (as he states in his preface) such of his judgments as had not a merely local character. These Reports were published under the supervision and with the authority of the ex-Chancellor, and dedicated by permission to Mr. Justice Patteson. There are besides several judgments, relating more especially to Irish law, which are reported in the 7th and 8th volumes of the Irish Chancery Reports. In the last case heard by Mr. Napier—it was the case of Walker *v.* Taylor, and heard on the 16th of June, 1859—his lordship, having delivered his judgment, thus concluded:—“And here, for the present, I close the book, the great volume of equity. To have been enrolled as a commentator—associated with the wise, the learned, and the good—

“ ‘The noble living and the noble dead,’

might more than satisfy the highest professional ambition. I have enjoyed, moreover, while here presiding, what to me at least has been a source of unmingled gratification, the household happiness—may I call it?—for which I am mainly indebted to the kindness of my brethren of the bar, and the unceasing attention of the officers of the court. To both I am grateful. For all, I am deeply thankful to God.”

Soon after Mr. Napier ceased to be Chancellor he had a communication from the Solicitor-General for England (Sir R. Bethell), stating that he wrote with the concurrence and approval of Lord Palmerston (the Premier) and of Lord Campbell (then the Lord Chancellor of Great Britain), to request that he would consent to have his name placed on the judicial committee of the Privy Council in London. Mr. Napier assented, but it was unexpectedly found that the Act of Parliament under which the committee was constituted had not provided for the admission of an ex-Chancellor or an ex-Judge of Ireland or of Scotland, but had confined the privilege to those of England, so he had to “stand aside.” This was not the only testimonial to the great merits of Mr. Napier. He also received a kind letter from the Earl of Eglinton, expressing his high approval and grateful appreciation of his political conduct as Chancellor, and as his colleague in the executive government of Ireland; whilst Lord Justice Blackburne addressed to him a letter containing

the highest testimony to the manner in which he had performed the judicial duties of his office in the Court of Appeal.

In 1861 Mr. Napier spent some time in Rome, and on his return delivered an opening address as president of the department of jurisprudence, at the meeting of "The Social Science Association," which was held during the long vacation in the Four Courts, Dublin. Speaking of social science, he says:—

"Is it not worthy of social science to give a greater efficiency to this system, a greater reverence for the law itself, a higher position for the legal profession? Nor is it a light matter whether this profession should sink to a vulgar level, or be raised to a higher elevation. Public justice must have its ministers, and public policy requires that these should be men of cultivated minds. It is not enough to have a supply of rough and ready justice. However useful this lower currency may be, we must seek to maintain a great and goodly system of jurisprudence, under which public order, civil and religious freedom, protection of life and property, may be adequately secured—a system which will nurture advocacy of the highest order, and encourage the learning, the wisdom, and the love of justice which are not less the ornament than the support of judicial authority. The amendment of the law, the increased efficiency of our judicial system, and the elevation of the bar, are not the only benefits to be realised. But here I must halt. I have reached the extreme limits of my own department. I cannot now turn towards the venerable hall of justice where we assemble on this occasion, without being reminded that there I learned to reverence the laws and institutions of my country. I cannot forget the many years of kindly intercourse which I have had with my brethren of the bar, and those venerable magistrates who have been gathered to their everlasting rest, who have enriched our jurisprudence with the treasures of their sober wisdom, their exact learning, and their chastened experience—Plunket, Bushe, Burton, Smith, Joy, Pennecfather—

'The dust of these is Irish earth,
Whilst with their own they rest;
And the same land which gave them birth
Has caught them to her breast.'

"Their memorials have not perished with them; these are bound up with the moral order of the world. The jurisprudence of every country is connected with the great system of universal justice, whose seat is in the bosom of God. The *vouos* of the Greek, the *sum cuique* of the noble and enlightened jurisprudence of Rome, the justice and mercy of our own, all culminate in a higher law—that divine but simple code of sacred and of

social duty, on which our gracious Redeemer, by His memorable comment, has stamped His own image and superscription :—

‘ It sinks the specialties of race and creed
In the deep sympathy of man with man :
The highest law is systematic love.’ ”

Mr. Napier had now hours of leisure at his command, and those hours were usefully employed—at one time in delivering lectures to young men on the lives of distinguished Irishmen who had gone before us ; at another time in ably combating the infidel tendencies of the age. With this latter purpose he wrote the preface prefixed to the work of the Rev. John Nash Griffin, “Seven Answers to the Seven Essays and Reviews.” His lecture on Edmund Burke was a graphic and remarkable composition—rich in sound criticism, full of incident, and abounding in practical illustrations of the rough up-hill toil which that great Irishman had to undergo in his youth, before he was even recognised as a man of established merit. Nor did the lecturer forget to characterise the baneful code which was in force during the last century against Roman Catholics, as “odious and oppressive laws.”

In 1867, the Conservatives having returned to power, it was expected that Mr. Napier would have been re-appointed to his place in the Court of Chancery ; but it must be remembered that after he had retired from the bench, in 1859, he did not return to the House of Commons, and he was therefore, in 1867, no longer amongst the actual combatants of his party. Lord Derby thought it necessary at that time to extend the supports of the Conservative party as widely as possible, and for this purpose to take into coalition several of the Conservative Liberals. It was, of course, necessary to find places for those who were, in accordance with this policy, to be provided for ; and it was thought, by taking into their ranks Mr. Brewster, Mr. Morris, then member of parliament for the town of Galway, and some others, that much useful support would be procured for a ministry somewhat dependent for such support. Moreover, it was considered by a certain party in the new ministry, that Mr. Napier had not been sufficiently a partisan as Chancellor ; for, truth to tell, he had always acted with resolute impartiality, and without fear, favour, or affection. It was, therefore, arranged to hold him over for the place of Lord Justice of Appeal, which it was expected would soon be vacant. The complications which prevented the appointment of Mr. Brewster to the woolsack ended in the elevation of Mr. Blackburne, and upon his acceptance of the Seals Lord Derby at once wrote to Mr. Napier, to offer him the post of Lord Justice of

Appeal. But the various intrigues and competitions for place made it as much an object with several to exclude Mr. Napier as it had been to set Mr. Brewster aside. Their ostensible ground was, his alleged inability to hear in court, for he was subject to a slight deafness; but the real ground was that he was said by several of the malcontents to have got enough already, and that a good place ought to be made available for the more urgent uses of a struggling party. Mr. Napier felt in this state of things that he ought to relieve Lord Derby as much as possible from any embarrassment on his account, though he had the emphatic assurance of Lord Brougham, of Mr. Blackburne, and of others most competent to judge, that there was no real hindrance to his efficient discharge of the duty of the Lord Justice of Appeal. Indeed, Lord Brougham considered that the post was peculiarly appropriate, and what Sir Joseph Napier could best fill with satisfaction. Mr. Napier had a personal interview with Lord Derby, who acted with high spirit and honour, and with that friendly regard which he had always shown him, and advised Mr. Napier, if the latter felt any perplexity in the matter, to confer with three friends, whom he named—Lord Chelmsford, Sir H. Cairns, and Mr. G. A. Hamilton. The opinion of Sir Hugh Cairns was that it was altogether for himself to decide; but Sir Hugh acknowledged that, although he fully believed him to be quite fit, yet he would be subject to be worried in court and misrepresented, so long as there was an object in getting him out of the position, and that he would, therefore, best consult his own ease and dignity by declining. Lord Chelmsford took a more adverse view, on the ground of the deafness; but Mr. Hamilton coincided with Sir Hugh Cairns, yet thought, nevertheless, that advantage might be taken of his infirmity, in the House of Commons, to embarrass Lord Derby by some adverse motion. Under these circumstances, Mr. Napier came to the conclusion that he ought to consider the exigencies of Lord Derby's position, sink all considerations of self, and give up the appointment, which otherwise, beyond all doubt, he could have filled with satisfaction. That he was afterwards made a member of the English Privy Council, and placed on the Judicial Committee in London, in 1868—and still later, that he was appointed in 1874 Chief Commissioner, having the custody of the Great Seal in Ireland, and head of the Irish Court of Appeal—are facts sufficient to show that, beyond the intrigues of party, there was no real hindrance to his filling the office of Lord Justice of Appeal in Ireland.

In the month of April following, Mr. Napier was created a baronet by Lord Derby, a graceful and deserved compliment, and which, his lordship stated, was in consideration of the

many services for which he pledged his gratitude. Soon after the elevation of Lord Cairns to the Chancellorship of England, a vacancy occurred in the Judicial Committee of the Privy Council, by the death of Lord Kingsdown, and Sir Joseph Napier was selected to fill the vacancy by appointment under the Queen's warrant, dated 28th March, 1868. From that time to 1874 he frequently attended that court, and his judgments are reported in *Moore's Privy Council Cases*, commencing with the fifth volume of the new series. Amongst the honours conferred upon him, not the least valued was this, that he was twice chosen Vice-Chancellor of that University where he had had his early training. The first time he was appointed by the great astronomer, Lord Rosse, then Chancellor of the University of Dublin, and afterwards, on his death, when Lord Cairns, the present Lord Chancellor of Great Britain, was elected as his successor, Sir Joseph Napier was re-appointed Vice-Chancellor of the University.

In the summer of 1871 Sir Joseph Napier devoted much of his attention to the consideration of a subject which had been one of much controversy—the constitution of the University of Dublin, and its relation to Trinity College. Having investigated the question at issue, he published a thesis, which met with the entire approval of Lord Cairns, entitled *The College and the University*, and the result of his investigations appeared to be this:—

1. That the College has certain University privileges which have been conferred on its *studiosi* and on its governing body.

2. That the University (properly so called) is a distinct corporate body.

3. That the *studiosi* have not, and never had, the right to elect any of the principal officers of the University.

4. That the governing body of the College had the power of making the "*leges Academiæ*," with reference to the conferring of degrees, and were not confined to the adoption of laws of either of the Universities of Oxford and Cambridge.

5. That the true intent and purpose of the charters and statutes is, to deal with the College and the University as integral parts of one educational institution, in which a complete course of instruction in arts and faculties is to be provided.

In connexion with the subject of University education, a question of much nicety arose out of the Fellowship examination which took place on the 23rd of May, 1872. Mr. Purser, one of the successful candidates, was a Moravian. Before the examination counsel were consulted as to whether, in the event of his being entitled by superior merit to one of the two Fellowships then vacant, he would be eligible, and would not be disqualified by the religious test. Counsel differed in opinion, one

holding that the Board were not debarred by the terms of the statute from electing him, while another held that they were. In this dilemma they consulted Sir J. Napier as to the course they ought to take, and he advised them to elect the two best candidates, and that in the event of Mr. Purser being disqualified, the third would succeed to the second place without having another examination next year.

After the examination had concluded, Mr. Purser was declared entitled to the first Fellowship, Mr. M'Cay to the second, while Mr. Minchin was the third, and Mr. Pattison the fourth, in order of merit. Mr. Purser, a Moravian, as we have said, admitted that he had no objection to attend the services of the Church of Ireland, and to receive the sacrament according to the rites and ceremonies of that Church, but he declined to make the statutable declaration. The Provost thereupon refused to admit him, although elected by the Board to the vacant Fellowship.

On the 11th of June, 1872, the question was argued in the Examination Hall of the College, before the Visitors, Sir Joseph Napier, and the Archbishop of Dublin.

The Solicitor-General, Mr. Palles, Q.C. (with Mr. Murray), appeared as counsel for Messrs. Minchin and Panton.

Mr. Jellett, Q.C., and Mr. Bewley, for Mr. Purser.

Dr. Ball, Q.C., Messrs. Tandy, Q.C., and Webb, for Trinity College.

The case of Mr. Purser involved the question whether, although in other material respects he was adjudged to be superior to his competitors, he was legally disqualified to be elected a Fellow, inasmuch as at the time he was a member of the Moravian Church.

The Vice-Chancellor of the University, Sir Joseph Napier, held that the case was not one of a disqualification distinctly and directly provided for in the College statutes, either expressly or by clear and manifest implication; and that beyond this, it was for the electors to decide according to the terms of their electoral oath, and their conscientious judgment, which was in its nature final and conclusive. The Archbishop of Dublin intimated his opinion to be that a question of theology was involved, upon which he proposed to communicate his opinion to the Chancellor of the University (Lord Cairns). The Vice-Chancellor proceeded on the principle established by the decision in the case of Downing College, Cambridge (3 *Mylne & Craig*); an authority which he discovered by his subsequent research, and fully confirmed his view; but the opinion of the Chancellor was in itself and by the statutes conclusive. The opinions of each of the Visitors having been communicated to him, together with a full report of the arguments, Lord Cairns

arrived at the same conclusion as the Vice-Chancellor, and the decision was made accordingly. The Vice-Chancellor gave his reasons in an elaborate judgment, in which he dealt with the arguments and authorities relied on by counsel. The Archbishop, on this occasion, stated that, having seen the opinions of the Chancellor and the Vice-Chancellor, he thought it could not be of any service to the parties for him to offer any opinion upon the question of Mr. Purser's eligibility. In other respects he concurred with the decision. The decision has been signed by the Visitors, and countersigned by the Chancellor of the University.

Mr. Purser being thus declared eligible, was called upon to make the declaration required to be made by a Fellow after his election, and before his admission to the full rights of Fellowship. This he declined to do, and the Fellowship thereupon was declared vacant.

On the 17th of February, 1874, Mr. Gladstone tendered his resignation as Prime Minister, and on the 22nd of February Lord O'Hagan retired from the Court of Chancery. Mr. Ball, one of Her Majesty's counsel and Member of Parliament for the University of Dublin, was appointed Attorney-General for Ireland by the new Premier, Mr. Disraeli; but a difficulty arose as to the selection of a Chancellor. Mr. Ball was offered and accepted the post, but as his assistance was then required in the House of Commons, the government resolved to postpone making the appointment until his services could with more ease be dispensed with in the House. In the meantime the Great Seal was put in commission, and Sir Joseph Napier, Mr. Justice Lawson and Master Brooke were chosen as Commissioners, with Mr. William J. Napier as secretary. Sir Joseph was Chief Commissioner. The amount of labour now done by him was marvellous. In addition to his duties in the Court of Chancery, he was assessor to the General Synod of the Church of Ireland, and was Vice-Chancellor of the University of Dublin. In this latter capacity he presided at a meeting of the Senate held in the Examination Hall of Trinity College, on Saturday the 25th of April, for the purpose of considering a proposed change in the governing body of the College. Meanwhile the business of the court was apportioned between the three Commissioners: Sir Joseph Napier and Mr. Justice Lawson heard causes, and Mr. Justice Lawson and Master Brooke heard the petitions moved, according to custom, on Saturdays, while the Court of Appeal was filled by the Chief Commissioner, Mr. Justice Lawson and the Lord Justice of Appeal. On Friday the 27th of November, 1874, Sir Joseph Napier presided for the last time in the Court of Chancery; for on that day his son, Mr. William J. Napier, a most efficient and esteemed officer of the

court, had been seized with his death-sickness, his afflicted father was, in consequence thereof, unable to return to his duties. He had been invited to a banquet to be given on the following Tuesday to Her Majesty's judges by the Lord Mayor of Dublin, but the invitation he declined; and on that night he was sitting by the bed of his dying son, while his brother-in-law, the late Chief Justice Whiteside, was responding to the toast of "Her Majesty's Judges," and modestly declaiming on the glories of the bench. He spoke *de omnibus rebus*, and on the "headless Court of Chancery," in allusion to the fact that that court was then without a Chancellor. The phrase was ambiguous, and the ambiguity was patent.

On the 22nd December, 1874, Mr. Justice Lawson, one of the Lords Commissioners for the custody of the Great Seal, and Lord Justice Christian, sat in the Court of Appeal in Chancery, there to deliver judgment in the last case in their lordships' list. It was the case of Mulholland and others *v.* Killeen and others, which was an appeal from a decretal order of the Vice-Chancellor, allowing the prayer of the plaintiffs' bill, which prayed for an injunction to restrain the defendants, farmers residing on the sea-coast, at Bellaghan, in the county of Louth, "from taking sea-weed from that portion of the sea-shore, same being a mile and a-half in length, that was between high water and low water-mark, from a point marked B on the Ordnance map on the north, to another point W on the south, by a mile in breadth, and being a portion of what had been the estate of the Marquis of Anglesey, and which was set up and sold in the late Incumbered Estates Court, and under the conveyance from that Court the plaintiff (Mulholland) claimed to be owner of the foreshore in question, and entitled to all the seaweed drifted or growing upon it. He insisted on this as his right, but it was held not to be included in the conveyance from the Incumbered Estates Court. Plaintiff then obtained from the trustees of the Marquis of Anglesey's estate a conveyance of whatever right the Marquis had over the property in question. Relying upon this conveyance, he afterwards brought an action against Killeen, who had taken seaweed from the place without his leave, and obtained a verdict. The defendant and others, farmers near Bellaghan, insisted that by immemorial custom they had a right to the seaweed, and that the foreshore was not the property of the plaintiff, but that of the Crown. Numerous affidavits were filed on both sides as to the usage of the tenants in taking seaweed as a matter of right, and, as to a custom existing on the estate of the late Marquis of Anglesey, of giving licenses to tenants, on the payment of certain rents, to take seaweed from the place." The Vice-Chancellor having granted the required injunction, the defendants appealed.

Lord Commissioner Lawson read the judgment of Lord Commissioner Sir Joseph Napier, in which he (Lord Commissioner Lawson) concurred, affirming the decision of the Vice-Chancellor, and dismissing the appeal.

Lord Justice Christian had some doubt whether the plaintiffs had sufficiently established at law their ownership of the sea-shore in question, so as to warrant the Court of Chancery in granting the prayer of a bill of peace, and thereby quieting the plaintiffs for ever in the possession of the shore, and excluding therefrom all the rest of the public. His lordship then paid this parting tribute to the Commissioners, the chief of whom was Sir Joseph Napier:—"I have thus tried to make intelligible the considerations which, I must confess, have left me full of misgivings as to the soundness of this claim, though it has met with the approval of both the Lords Commissioners. Then the question presents itself—which is, under the circumstances, of little or no consequence to anyone but myself—what course ought I to take? If I were sitting alone, and were hearing this case in the first instance, I believe that I should send it to a trial at law. But I am not hearing it in the first instance, and I am not sitting alone. I have the advantage of being associated with colleagues whose judgment, whose knowledge, whose conversance with the affairs of this court, and exclusive devotion of their time to them, I can hold in that respect that, as when I find them agreeing with me I am encouraged; so when I find them differing from me, I am instantly held in check. The latter is precisely the position in which I find myself at this moment, and which I have found myself in since the commencement of the present admirable constitution of this court, I say advisedly—and I am happy to take this, the last, opportunity of saying it—the present admirable constitution of this court—headless though it be—a headless institution—as, with exquisite appropriateness of time, and place, and circumstances, it has been lately called by one who seldom stops to measure his phrases by his knowledge of whatever subject he may take a fancy to declaim about. I have great pleasure in informing that very eminent legal personage, as he has been good enough to concern himself about us, that the Court of Chancery in Ireland is now, and has been for the last nine months of this year, under very excellent headship and leadership indeed—and in particular as to this its upper branch, of which I can speak with some knowledge—this, the Court of Appeal in Chancery—this, let me remind our censor, the first and most exalted, without a single exception, among all the courts within this realm, whether of law or of equity, as the court must needs be which hears appeals from the court of the Lord Chancellor himself, when we have the felicity to possess one—that never since it was founded has

it been better headed, better guided, better led, smoother in working, more harmonious in mutual help and co-operation, more efficient in every way for transacting the public business than it has been during the last three terms of the present year."

The Queen's Letter appointing the Right Hon. John Thomas Ball Lord High Chancellor of Ireland arrived in Dublin on Saturday the 26th of December, and on the following Tuesday he was sworn into office by Sir Joseph Napier, who, on Friday the 1st of January, 1875, with the other commissioners, waited on the Lord Lieutenant at the Viceregal Lodge, and there delivered the Seals of their high office to his Excellency. With this last public act we shall conclude our memoir; and we have perhaps to offer some apology to the Right Honourable and learned baronet of whom we have written so much, and who would doubtless prefer to leave his memoir to be written by another and an abler hand in a day as yet, we trust, far distant, when he shall himself have gone to his rest: but then it is the fate of the learned and the upright, that their sayings and their doings, even in their own lifetime, shall be chronicled, so that others may follow in their footsteps.

117. A. D. 1867.—ABRAHAM BREWSTER. The Brewsters came for the first time to this country during the protectorate of Oliver Cromwell. Sir Francis Brewster was, after the Restoration of Charles II., associated with the Earl of Drogheda and others, as a commissioner to take an account of the forfeited estates. Another branch of the family settled about the same time in the county of Wicklow, and of this branch was Samuel Brewster, of Ballywilliam-Roe, in the county of Carlow, whose son, William Bagenal Brewster, of Bullymutra, county of Wicklow, was married to Mary, daughter of Thomas Bates, Esq., and was father of Abraham Brewster, the subject of this memoir, who was born in the year 1796.

Mr. Brewster entered the University of Dublin in 1812, and regularly, as it appears by the college books, kept his terms until he took his degree of Bachelor of Arts at the Spring commencements of 1817. In his college course he, like many other able men, was undistinguished, and gave no hopes of his future success. In 1819 he was called to the bar, and having chosen "the Leinster" for his circuit, soon acquired the reputation of a sound lawyer, an able cross-examiner, and a powerful speaker. His business slowly but steadily increased. Though taking his place amongst the Conservative lawyers, it was by Lord Plunket he was honoured with a silk gown in 1835, and his practice then increased enormously. The change of ministry, which brought

in 1841 Earl de Grey to Ireland as Lord Lieutenant, brought the Conservative lawyers again into high places. Mr. Blackburne as Attorney-General was consulted as to who should be the new law adviser, and he named Mr. Brewster, who was then on the continent, at the same time "doubting whether the sacrifices which the acceptance of such an office involved might not induce him to decline it." On the day on which he recommended Mr. Brewster he wrote letters to the Lord Chancellor (Sir Edward Sugden) and to Mr. Brewster on this subject, and the following is the Chancellor's reply:—

"HOUSE OF COMMONS, *Monday*.

"MY DEAR BLACKBURNE,—I entirely approve of Mr. Brewster's nomination. I am still here, as the proper steps have not yet been completed to place me in the office of Chancellor of Ireland. I wish you would be so good as to let me know when my patent is completed. I think I shall go over for a short time as soon as I can.

"In haste,

"Yours very truly,

"EDWARD B. SUGDEN."

When the appointment of Mr. Brewster became known, O'Connell was loud in his denunciations. Charges of Orangeism and extreme party feeling and prejudice were made, and as these were believed in England, the government took the alarm, and Sir James Graham, on the 23rd of September, wrote to the Attorney-General, "that the selection of legal adviser at the Castle should be suspended" until they could have an opportunity of consulting with the Lord Lieutenant. Mr. O'Connell persisting in his denunciations, the government desired to cancel the nomination, but this the Attorney-General vigorously resisted, and intimated to the Lord Chancellor that he would not tolerate so gross an insult to Mr. Brewster. At length on the 10th of October the appointment was made, though the members of the government were by no means at rest on the subject.¹

In the case of *The Queen v. Daniel O'Connell and others*, in 1844, Mr. Brewster was associated with the able lawyers that appeared for the Crown. On him, however, little of the labour was cast, inasmuch as the statement of the case and the reply were made by the Attorney- and Solicitor-General.

From his appointment to the law advisership down to the

¹ *Life of Francis Blackburne*, by his Son, pp. 208-215.

early part of the year 1846 he was, though in enormous private practice, assiduous in his duties at the Castle; nevertheless he was not appointed Solicitor-General until the eve of the retirement of Sir Robert Peel in the last-named year. This promotion was due, it was said, to the influence of Sir James Graham, then Home Secretary; and when Sir James took his place in the Aberdeen cabinet of 28th of December, 1852, Mr. Brewster became Attorney-General.

The anti-Catholic movement in England in 1852, consequent on "the papal aggression," was followed by a movement in the opposite direction in this country, and several members of ultramontane principles were returned to parliament from Ireland, at the general election of that memorable year; and it was not without a struggle, sometimes to the death, that the Catholic party carried the day. The Six-mile-bridge tragedy is an instance of the horrors that prevailed at that blood-stained election. A military escort consisting of two officers, two serjeants, and forty men, were called upon to act as a safeguard for some voters who were going to the hustings at Six-mile-bridge, when the soldiers fired on an angry but unoffending people, many of whom lost their lives in the affray. An inquest was held on the bodies, and a verdict of wilful murder was found against the magistrate in command, and soldiers. At the Clare assizes for 1853 the grand jury threw out the bills, and the Attorney-General then put the prisoners on their trial on the coroner's inquisition, when they were all acquitted.

The Coalition ministry was strong in parliamentary influence, but the coalition was in name only. It was practically a ministry of suspended opinions and smothered antipathies. Formed in times of peace, for the purpose of peace, the ministers were unexpectedly called upon to undertake the duties of the Russian war, for which subsequent events showed them wholly inefficient. The horrible state of the army in the Crimea had excited to the highest pitch the indignation of the public and of the House of Commons, who, by the overwhelming majority of 157, in a House numbering 453, condemned the government to an ignominious end. On the 1st of February, 1855, the Earl of Aberdeen in the Lords, and Lord Palmerston in the Commons, formally announced that ministers had placed their resignation in Her Majesty's hands. On the 16th of February the ministry was reconstructed, the tory element having been eliminated, Lord Palmerston taking the place of Lord Aberdeen as Premier. Amongst those who retired was Sir James Graham. Mr. Brewster, on his party going out of the cabinet, conceived that he was bound in honour also to resign, and he was succeeded by

the Solicitor-General (Mr. Keogh) as Attorney-General for Ireland.

Mr. Brewster, from his resignation in 1855 to the return of the Conservatives in 1866, was entirely devoted to his profession. A powerful cross-examiner, an able advocate, he lived for his clients, and knew no other interest than theirs—and their name was legion! As an equity lawyer he was great, few to equal and none to surpass him. In the criminal law he was equally well read, and equally powerful. With a stentorian voice, he adopted in the cross-examination of witnesses the rules of the Roman lawyer Quintillian, “leading the unwary into a trap, deceiving the foolish, flattering the vain, stupifying the stupid, thundering at the cunning, and terrifying the perjurer.” He was a moderate politician, but his political views were never propounded on the platform, nor did he write in the press; and his conversations on political subjects, and his silent votes at an election of a member of Parliament, were the only means by which men would know on which side his political leanings were. It is remarkable that this great lawyer and powerful though un-oratorical speaker, engaged in every case of magnitude that was at trial for forty years, has left behind him no wonderful speech and no singular effort of statesmanship, and no legislation is identified with his name. As a real-property lawyer his opinion was taken in every case of difficulty, and no man at the Irish bar had such extensive chamber practice. Engaged as special counsel at every assizes, he was omnipresent during the circuits. In Cork, Derry, Galway, and Wicklow, he might be retained; and he so managed his cases as to be, even before the days of railroads and telegraphs, at each town in time for the case, which was generally fixed by the Judges for his convenience.

Mr. Brewster's reputation may be gathered in the pages of the *Irish Law and Equity Reports*, and in the later series of *Irish Common Law Reports*, *Irish Chancery Reports*, and in *The Irish Jurist*, in all of which his name so largely figures. Of course it is impossible, according to the fashion of modern times, to report the temper of the lawyer or of the judge. We have heard of judges who, like ordinary mortals, have from time to time lost their tempers; but no reporter would think of jotting down heated exclamations such as the reporters did in the reign of Henry V. There was then a Mr. Justice Hall, and the question that arose before him was, could the plaintiff recover damages from the defendant in an action brought to restrain the latter from following the trade of a dyer. Mr. Justice Hall having heard the case, says in his brief judgment:—“The plaintiff sues on a bond to restrain the following of a lawful trade; that bond is against the common law, and, by God! if

the plaintiff were here he should go to prison until he paid a fine to the king.”¹ And thus it is, that whilst the irritable temper of Judge Hall, living 460 years ago, is chronicled, the irritable temper of Brewster on the bench is not recorded by the reporters living in our day.

Amid the important cases in which Mr. Brewster was employed may be mentioned the Mountgarrett case, involving great issues—a peerage and an estate of £10,000 a-year. It was tried in 1854 at the assizes for Kilkenny, the case turning on the validity of a Scotch marriage.

A Colonel Colebrooke died, leaving a widow with £1500 a-year, which she was to lose if she married again. Henry Butler, the third son of the eleventh Viscount Mountgarrett, met the lady in society, and a connexion ensued, resulting in the birth of a child in 1809.²

They proceeded to Edinburgh, where she met another Irish gentleman of the name of Taaffe, who supplanted Butler for a time in the lady’s regards. Butler separated from her, but her money being an object to the gallant gentleman, he affected indignation at her conduct, and, alleging she was his wife, returned to Edinburgh, his object being to procure such a marriage as would enable him to proclaim Mrs. Colebrooke his wife whenever it might suit him; he was, in fact, living on her income. When Butler arrived in Edinburgh, he forced his way into her house, called her his wife and the mother of his child, and created a great disturbance.

At the inconvenient hour of his calling, a Mr. Taaffe was in Mrs. Colebrooke’s bedroom, and she, in order to prevent a row and an inevitable duel, locked Taaffe up in her room, and brought Butler into another room. Butler then insisted on their being then and there married, and she, summoning her man and maid servants, and a third person, told them Mr. Butler wished to be married to her, and they were required to witness the marriage. A written contract was then entered into and signed, and by the Scotch law they were actually married. They afterwards lived as man and wife, but Butler deserted her, when she again returned to Taaffe.

Butler was afterwards introduced to a Miss Harrison, a Yorkshire lady, with whom, in the parish church of Harrogate, he contracted marriage. The defendant in the case was the eldest son of this marriage. The question therefore was, whether the Scotch marriage with Mrs. Colebrooke were valid; for, if so, this son was illegitimate, and so the plaintiff in the action, being

¹ This ancient case is mentioned in the Ipswich Tailors’ case, 6 *Coke’s Rep.*, part xi., p. 53.

² From the *Dublin University Magazine*, 1874, p. 655.

the eldest son of the fourth son of the eleventh Viscount Mountgarrett, would be entitled to the property and title.

Mrs. Colebrooke was, after the alleged marriage with Butler, married by a Roman Catholic priest in Lancashire to Taafe; but he, finding amid her papers some document stating she and Butler had been married, at once separated from her. She endeavoured to validate the marriage with Taafe, but failed, as she was a professing Protestant and Taafe was a Roman Catholic.

The jury at the first trial found for the plaintiff, but on a second trial the defendant succeeded, and his title was afterwards confirmed by the House of Lords. Mr. Brewster, who had the responsibility of this case thrown upon him, was aided, however, by the great oratorical powers of Mr. Whiteside, who was retained on the same side.

Another case of note, by reason of the position of the parties, in which Mr. Brewster, as Attorney-General, conducted the prosecution, was the "Carden abduction," tried at the Clonmel assizes, in July, 1854. This was the case of a gentleman of fortune and family in the county of Tipperary attempting to carry off by violence Miss Arbuthnot, whose sister was married to Lord Gough. It was a most audacious effort, and failed, owing to the courage of a lady who at the time was in company with Miss Arbuthnot. They were returning from church in broad daylight, when their horses were stopped and the traces of their carriage cut, and the high-minded Tipperary gentleman attempted by force to seize and drag from her carriage the lady he professed to admire. She was happily rescued, and for this gross outrage he was tried and sentenced to two years' imprisonment with hard labour.

The Yelverton case, involving the validity of both a Scotch and Irish marriage, was also entrusted by Major Yelverton, the defendant, to Mr. Brewster's management; and though he failed in essentially shaking the testimony of the lady, on whose evidence the plaintiff's case rested, after a cross-examination of nearly two days, the power and force of that cross-questioning cannot readily be forgotten. And to show how varied the business and the cases in which Mr. Brewster was engaged, we may cite the Egmont case, in which the issue was whether a certain instrument was the last will and testament of Henry Earl of Egmont? This involved all the issues suggestible on a charge of undue influence, and was ultimately compromised by the Earl of Egmont paying Sir W. Dayrell, the plaintiff in the issue, £127,000, and the plaintiff surrendering to the earl the estates devised by the will.

Mr. Brewster was counsel also for Lord Templemore, in an action of ejectment, instituted by the Marquis of Donegal, to recover a line of quayage in the town of Belfast, of enormous

value; and this contention ultimately, after ten or twelve trials at *Nisi Prius*, was, on appeal to the House of Lords, compromised.

The last of the great causes in which he was engaged was that of *Fitzgerald v. Fitzgerald*, tried in the Probate Court, on an issue as to the validity of a will, involving a rental of some thousands a-year, where the evidence was so varied, and the witnesses so numerous, that the trial lasted for three weeks. Mr. Brewster's statement for the plaintiff is said to have been one of his most successful efforts.

On Lord Derby's becoming Prime Minister in 1866, Mr. Blackburne vacated, as we have said, the office of Lord Justice of Appeal, and Mr. Brewster succeeded to the vacant seat; and thus, after forty-seven years' practice, one of the most distinguished members of the bar was raised to the bench.

In the month of March, 1867, Mr. Blackburne resigned the Seals, and the Lord Justice of Appeal became Lord Chancellor. The result of the general elections of 1868 was soon apparent, as return after return became known. Mr. Disraeli, then Prime Minister, convinced that the decision of the constituencies was such as to preclude all prospect of the Conservative party remaining in power, at once placed his resignation and that of his cabinet in the hands of Her Majesty; and as Parliament was not sitting at the time, the resolution of Mr. Disraeli was communicated by a circular to the supporters of the government.

On the 17th of December Mr. Brewster sat for the last time in Court as Lord Chancellor of Ireland. As the hour for parting approached, every avenue to the Court became thronged. The last case on the list being disposed of, the Attorney-General (the Right Hon. John Thomas Ball) rose, and thus, in eloquent words, addressed the retiring Chancellor:—¹

“MY LORD,—We are informed that it is not your lordship's intention to sit again in this Court; and therefore I, on behalf of the bar, and at their request, take the opportunity to acknowledge the courtesy and kindness which we have all experienced from your lordship on all occasions. We have also to express our respect and admiration for the unwearied attention, the great learning and capacity, that has ever characterised the discharge of the duties of your high office. Your elevation to that office, after a life of pre-eminent professional distinction, was an object of gratification to us all; and now, on your lordship's retirement, consequent on political changes, I have to convey to you the warmest wishes of the bar for your happiness and welfare.”

¹ Vide *Irish Times*, 18th December, 1868.

The Lord Chancellor, who was no orator, thus in disjointed sentences replied :—

"GENTLEMEN,—The few words I have to say are meant for all of you. I have always found it the most disagreeable thing in the world to say farewell. No man ever came to the Irish bar who owes more to the whole body than I do, because from the day I was called—from that day to the day I ascended the bench—I never met anything but the most uniform kindness from every individual member of that body; and a great deal more, when I was young I never wanted assistance that I did not find the hand stretched to assist me. When I became a leader at the bar, I found from the juniors such assistance as made my labours comparatively light; for I am bound to say that during the twenty or thirty years that I practised in this court, I never came into it as an advocate without having placed before me every assistance from my junior; and when I came here as Chancellor, I looked back on those kindnesses with gratitude—I remember with gratitude *that kindness*—and now I wish you all good-bye!"

He then left the bench, and ceased to have connexion with public life. Whether his judicial career was in keeping with his previous reputation it is for those who practised before him to say. There are not in print more than three or four judgments delivered by him either in the Appellate Court or the Court of Chancery. He died at his residence in Merrion-square, Dublin, on the 26th of July, 1874. By his wife Mary, daughter of R. Gray, of Upton, in the county of Carlow, he had issue, one son, Colonel Brewster, and one daughter, Mrs. French, both of whom died in his lifetime.

118. A.D. 1868.—LORD O'HAGAN. The name of O'Hagan is so old that its early origin is lost in fable. When the O'Neils reigned sovereigns of Ulster, the chief of the sept of O'Hagan was chief Brehon, or chief judge of that kingly race, and we have it on the authority of Donald O'Neal, who in his celebrated letter to Pope John XXII. in 1329, styles himself "King of Ulster and true heir of the whole dominion of Ireland," that from the time of St. Patrick in 440 to the landing of Henry II. in 1171, through a period of 731 years, "sixty monarchs of the same princely family had swayed the Hibernian sceptre." This would give an average duration of a little more than twelve years to the reign of each sovereign. He also states that previously to the coming of St. Patrick, one hundred and thirty of his ancestors had been Kings of Ireland. If we allow to each reign a similar average duration, then the



L. S. A. C. P.

D. G. W. S.

THE RIGHT HON. LORD O'HAGAN.

O'Neils' would have been on the throne 1560 years before the time of St. Patrick, or 1120 years before Christ, and the O'Hagan as chief Brehon may have judged the people in Ulster when Samson was yet one of the Judges of Israel. The inauguration of the O'Neils was a solemn ceremony performed at a short distance from the western shores of Lough Neagh, and within the fortress of Tullaghogue, where the chief Brehon O'Hagan dwelt. A remarkable feature in this ceremonial was "the casting of the shoe," which was evidently an eastern custom, and was done after this manner:—When all things were ready, the representative of the people who was chief of the O'Cahans took the golden shoe from off his foot, and flung it over the head of the O'Neil, then seated on the coronation stone. The O'Hagan, as chief Brehon, took up the shoe, and kneeling, fastened it on his sovereign's foot, and this was a testimony of their allegiance made by the people through their representative.

That the ceremony of casting the shoe was common amongst the Jews, appears from the 4th chapter of the Book of Ruth, verse 7, where it is said: "now this in former times was the manner in Israel between kinsmen, that if at any time one yielded his right to another, that the grant might be sure, the man put off his shoe, and gave it to his neighbour; this was a testimony of cession of right in Israel."

After the coronation, the O'Neil, who was presented with the white rod, which symbolized at once the authority, the purity and the justice with which he promised to wield the sceptre, took up his residence in his palace at Dungannon, while the O'Hagan continued to reside in his princely residence within the fortress of Tullaghogue. Of the palace of Tullaghogue all that now remains is a large number of unhewn blocks of limestone scattered around—

"Remnants of things that have passed away,
Fragments of stone, roared by creatures of clay."

¹ In an Irish poem of great antiquity, entitled *Duan Erranach*, it is stated that Niul (hence O'Neil) was the son of Fenius the ancestor of the early Fenians, that this Niul was married to a daughter of Pharoah, named Scotia, from whom the "Scots" derive their name, and that one of the sons of that marriage was Gael, from whom the Gauls, &c., are descended, and after whom they are called; that when Pharoah's host was swallowed up in the Red Sea (A. C. 1491), the Fenians left Egypt, and after centuries of wanderings settled in Spain, and from that country colonized Ireland. The poem of which we speak is copiously annotated by the late Rev. James Henthorn Todd, D.D., Senior Fellow of Trinity College, Dublin, and published by the Irish Archaeological Society in *Nennius*. On this subject of the descent of the Irish race, see an Act passed in the 1st of Elizabeth, for the attainder of O'Neil, *Irish Statutes*, vol. I. where "Her Majesty is advertized that afore the coming of the Irishmen into Ireland they were dwelling in a province in Spain."

The O'Hagans were also chief constables of the castle of Dungannon, and many of them were men of distinction in their day. Thus when O'Neil invited James VI. of Scotland to ascend the throne of this country, it was his secretary O'Hagan that was despatched on that fruitless mission to Holyrood. Again, when Hugh O'Neil, Earl of Tyrone, fled from his native country in 1607, he was accompanied by his secretary John Puntty O'Hagan; and in the next generation we find the O'Hagans ranged under the standard of Owen Roe O'Neil, and fighting against the regicide Cromwell. In the reign of James II. there were in Colonel Charles O'Neil's regiment seven officers of the O'Hagans—Captains Arthur, Charles, and Daniel O'Hagan; and Lieutenants John, Michael, Oliver, and Peter O'Hagan. We also find that Arthur and John O'Hagan were commissioners under James II. for the applotment of taxes on property in the county and city of Derry.

The O'Hagans were protectors of many religious houses in the North of Ireland. The monastery of St. Peter and St. Paul, founded by St. Patrick, in the primatial city of Armagh, for the canons regular of St. Augustin, was rebuilt by Imar O'Hagan, and became one of the most celebrated of the religious establishments that existed there. The O'Hagans had also founded in the neighbourhood of Tullahoghue the priory of Donarick, where they are interred. Round this spot gather the memories of the past, of the old times when

“A strong chief ruled over Tullahogue,
O'Hagan the lord of fair avenues”! ¹

In the latter end of the last century and in the beginning of this, there lived at Belfast an O'Hagan whose Christian-name was Edward, and who by his wife, a daughter of Captain Thomas Bell, was father of Thomas O'Hagan whose memoir we are now writing. He was born in 1812, and received his early education at the Belfast institution.

While pursuing his academical course he became a member and ultimately president of the Belfast Historical Society, which at that time rivalled in talent and fame its Dublin namesake. Even at that early age his genius for oratory displayed itself, and his reputation as a speaker was established in Ulster while he was yet a student. He prepared himself for the bar with great assiduity, and in London studied in the chambers of the well-known common law pleader, Thomas Chitty, among whose pupils Lord Cairns, Lord Chancellor Napier, Lord Chief Justice Whiteside, and other distinguished men were numbered.

In Hilary Term, 1836, he was called to the bar, and joined

¹ Topographical poem on Ulster—Connellan's *Annals of the Four Masters*, p. 601, n.

the north-east circuit, where he rose rapidly into reputation and practice. His early successes, like those of most young lawyers, were won in the defence of prisoners. The first case which brought him conspicuously before the public outside of his own province was a criminal prosecution instituted in the year 1842 against Mr. Duffy (now Sir Charles Gavan Duffy), the editor of the *Belfast Vindicator*. Some men had been tried, convicted, and executed in Armagh for an agrarian murder. They may have been guilty, but their jury had been duly packed according to the old system in Ireland, not one Catholic being permitted to serve upon it. Against this unfairness Mr. Duffy protested in language indignant as it was just, and he was answered by a criminal information. His counsel were Mr. O'Connell, Mr. O'Hagan, and the late lamented Sir Colman O'Loughlen, then hardly a year at the bar. Mr. O'Connell was unexpectedly detained in London, and the speech for the traverser fell to Mr. O'Hagan. His defence was so masterly, that it called down the warm applauses of the Attorney-General (Blackburne), who prosecuted, and of the Chief Justice (Pennefather), who tried the case. It at once acquired for the young lawyer the reputation of an advocate of the highest order.

In 1844 he formed one of the band of the foremost lawyers at the bar to whom the defence of O'Connell and his fellow-traversers was entrusted. In the report of that case we find that several of the most important law arguments were entrusted to him; and his speech for Mr. Duffy, on the motion for a new trial, was recognised as amongst the most telling and effective of the pleadings against the unfairness and irregularity which marked the trial. In the year 1849 he received a silk gown, and very soon took his place in the foremost rank of the common law bar.

The question of the better treatment of criminals engaged much of the attention of Mr. O'Hagan. When appointed in 1847 to the important office of assistant-barrister for the county of Longford, he worked energetically to bring this matter under the attention of the authorities, and his exertions on behalf of the most neglected of the community are worthy of the highest praise and of gratitude. Sincere and earnest in his devotion to the faith of his fathers, he took a leading part in organizing an opposition to the Ecclesiastical Titles Bill, and to the proposed legislation concerning convents, in 1852.

About this time active exertions were made by those who conscientiously believed in the truth of their own doctrines to win converts from the Church of Rome. A second reformation was believed to be at hand, and schools and soup kitchens in aid of this work were freely opened throughout the country. In Dublin and the surrounding districts the work of "evangelisation"

went on, increasing as it went in strength, *viresque acquirit eundo*. The doctrines of the reformers were brought before the people in every possible manner. Scripture readers, preachers, tract distributors, and converts, were to be met with in all directions. To counteract this movement the clergy of the Church of Rome went into the work with all their energies, and missions were opened with this view in various places. Amongst other missions one was conducted by Father Petcherine, of the Order of Redemptorists in the Catholic Church of Kingstown, in the year 1855. Multitudes flocked to those special services, and at their termination many books, which were denounced from the altar, were brought into the chapel-yard and there publicly burnt. In the burning pile was observed a book which was sworn to be the authorised version of the Holy Scriptures, but how it got into the burning mass was not accounted for. Informations were immediately sworn against Father Petcherine for a misdemeanour at common law, and "the Bible-burning case," as it was called, was sent for trial at the December commission in Green-street. The Attorney-General (Mr. Keogh) appeared to prosecute for the Crown, and Mr. O'Hagan conducted the defence. His speech on that occasion was, we are told by the newspapers of the day, "a masterpiece of learning, ability, and eloquence." From the opening to the close of the case, there was no evidence to connect the rev. defendant with the charge which Mr. O'Hagan indignantly denied. He repelled the false accusation that the Catholic Church was the enemy of the Bible.

"I am not ignorant," he said, "that at the very threshold of the argument, I have to encounter a deep and wide-spread prejudice, calculated to warp the judgments and cloud the understandings of the most honest men. It is believed by multitudes in these countries that the Catholic Church is the enemy of the Holy Bible—that she fears and hates its divine teachings, and would utterly destroy it if she could. This belief has been sedulously circulated, sometimes through ignorance, and sometimes through fanaticism—fostered by the teachings of an anti-Catholic literature—enforced from the Protestant pulpit and by the Protestant press, and entertained, with unquestioning assurance, by crowds of the simple Protestant people. But is it founded on the evidence of facts? And can you safely base on it an assumption of the antecedent likelihood of my client's guilt—Catholic as he is, priest as he is, and clinging to his faith with all the power of his intellect, and all the devotion of his heart? The question affects deeply the entire discussion of the case:—and I answer to it boldly that the belief is groundless—that it falsifies the truth of history, and all the traditions of the Christian world.

"The Catholic Church is not the enemy of the Bible. She has been the gaurdian of its purity and the preserver of its existence through the chances and changes of eighteen hundred years. In the gloom of the catacombs, and the splendour of the basilica, she cherished that holy book with equal reverence. When the seed of Christianity was sown in the blood of the martyrs, and she braved the persecutions of the despots of the world,—and when those despots bowed before the symbol of redemption, and she rose from her earthly humbleness and 'reared her mitred head' in courts and palaces,—it was equally the object of her unceasing care. She gathered together its scattered fragments,—separated the true word of inspiration from the spurious inventions of presumptuous and deceitful men—made its teachings and its history familiar to her children in her noble liturgy—asserted its divine authority in her councils—maintained its canonical integrity against all gainsayers, and transmitted it from age to age, as the precious inheritance of the Christian people.

"The saints whom she most venerates were its sagest commentators, and of the army of her white-robed martyrs, whom she still commemorates on her festal days, there were many who reached their eternal crowns by refusing, on the rack and in the flames, to desecrate or deny the holy book of God. And when time passed on, and barbarism swept over the earth from its northern fastnesses, and the old civilisation was no more, and rude violence and savage ignorance threatened to crush for ever the intellect of Europe, the Bible found its shrine in her cathedrals and its sanctuary in her cloisters. In their cells and their scriptoria, the monks of old—holy and laborious and unselfish men—men like the monk you see before you, branded as a blasphemer of the revelation of his Master—laboured by day and by night, and multiplied copies of the record of that revelation, adorning them with rare illustrations and gorgeous blazonry, and perpetuating and diffusing them throughout the world. The scholars of those times were adepts in Holy Writ. In the words of the Rev. Mr. Maitland, the late librarian of the Archbishop of Canterbury : 'The writings of the dark ages are made of the Scriptures. . . . The writers thought, and spoke, and wrote the thoughts, and words, and phrases, of the Bible, and did this constantly and habitually, as the natural mode of expressing themselves.' And worldly men in those ancient days vied with the monk and the scholar, if not in knowledge, at least in love and faith ; for we know that gold, and silver, and precious stones, were lavishly bestowed in adorning the sacred volume, and testifying the deep reverence with which it was preserved. And of all that mediæval time the same learned Protestant declares:—'I do not recollect any instance in which it is recorded that the Scriptures, or

any part of them, were treated with indignity, or with less than profound respect.'

"So far, the Catholic Church did not prove herself the enemy of the Bible, when there was unity in Christendom, and none presumed to check the development of her true policy and the manifestation of her real spirit. She guarded that which, by excellence, she named 'The Book,' through the gloom of ignorance, the fury of civil strife, the wreck of nations, and the revolutions of the world. And so the Bible was preserved, in the cloister and the school, and by the endless labours of devoted men, until printing came to give wings to thought and universality to knowledge. And how did the Catholic Church then deal with the sacred word? As if to consecrate the birth of the wondrous art, its earliest employment of importance was devoted to the preparation of editions of the Bible which, to this hour, are matchless in their splendour, and unequalled in their worth. In the middle of the fifteenth century, the Mazarin Bible commanded the wondering approval of the learned of Europe, and, at its close, the great Polyglot Bible was devised by the magnificent Ximenes. The presses of Europe teemed with editions of the Scriptures. France, Belgium, Italy, and Spain, were rich in them. Two hundred editions of the Vulgate appeared after the invention of printing and before the completion of Luther's Bible, and more than fifty editions in the vernacular tongues of the various nations were circulated during the same period. Surely these facts—and they are only a very few out of a multitude—demonstrate that the Catholic Church has not been the enemy of the Bible, and has never regarded it with dislike or apprehension."

The evidence was sufficient to disconnect Father Petcherine from any knowledge of or participation in this transaction, and he was acquitted.

Mr. O'Hagan's fame as an advocate was now world-wide. Wherever the English language was understood, his defence of Father Petcherine was published word for word as it was spoken. In France, in Germany, in Spain, the papers of the day gave faithful translations of this, one of the most remarkable speeches delivered in modern times. In 1857 he was removed from the Chairmanship of the county of Longford to that of the county of Dublin, and his removal called forth the warmest expressions of gratitude from the magistrates of the former county for his manifold labours in the cause of the Reformatory system.

His speech at the inauguration of Moore's monument excited universal admiration. It was on the 15th of October, 1857, that the ceremony of unveiling the statue of Thomas Moore took place. To do honour to his memory on that day came the

representative of Royalty, the chief magistrate and the municipality of his native city, and a distinguished array of the titled and of the untitled aristocracy of the country. The chair was taken by the Earl of Charlemont. To Mr. O'Hagan was entrusted the duty of presenting this statue (which had been just unveiled) to the Lord Mayor and Corporation, and through them to the citizens of Dublin :—

"The celebration," he said, "which has gathered this great assembly is of happy auspice, for it indicates the growth of a wise and healthy public sentiment, and proves that we can combine, at least, to cherish the memory of genius which was all our own—racy of the soil and instinct with the spirit of our own people. The genius of Thomas Moore was surely such. Its fair creations have been the delight of many countries, but they are peculiarly the property of the land that bore him, and on it is cast the duty of proving its special value for the great possession."

"You have heard, to-day, from those who have addressed you, enough to prove that men differ as to his character and conduct. If we were here to criticise, some of us—and I should be of the number—would find matter to disapprove in his writings, his opinions, or his life. But when has earthly greatness been undeformed by error, and are we to deny it reverence, because it is not without a blemish to remind us of the imperfection of our mortal state? Time, which blots from men's recollection the occasional and the fleeting in human deeds, establishes, with a perpetual consecration, that which merits to endure. And, regarding the permanent substance of his public life and work, coming generations will for ever recognise in Moore a great Irishman, whose Irish heart and intellect prompted and achieved great things for Ireland. He had a high mission, and he fulfilled it bravely. When he was born, near the spot on which we stand, and whilst he gathered knowledge in the old University which towers above us, we were yet without a poet to interpret to mankind the spirit and the character of Ireland—her genial fancy and her earnest feeling—her sorrows, her struggles, and her hopes. The dear old music of our island—so sweet, so various, so marvellously expressive, in its deep pathos and its bounding mirthfulness, of the changeful phases of the Irish nature—had not been 'married to immortal verse.' Much of it was passing to forgetfulness, for fit words had not been found to give wide acceptance to the airs which still lived in the traditions of the people—sounding by the cottage fireside, or from the strings of the wandering harper. Moore did for us what we needed, and what no man had done before him.

"Exquisitely organised in soul and sense, he gathered up the fragments of our ancient melodies, associated them with

lyrics such as had not been heard in later times, and made them 'joys for ever' to his country and the world. His songs have resounded, wherever the English tongue is borne by the mixed races who utter it throughout the earth. They are resounding still beneath eastern suns, and amidst Canadian snows—in the deep forests of the west, and at the far antipodes, where young empires begin their progress. And the same sweet strains, coupled with the same old music, but clothed in the dialects of other lands, have been heard throughout Christendom and beyond it—have been sung by the Frenchman and the Russian, the Persian and the Pole. And thus have the name, and the history, and the genius of our country been made familiar to distant nations; and Ireland has been exalted in claiming as her own one of the greatest lyrists of the modern world. Fitly, therefore, even without reference to his achievements in other fields of intellectual action—for in this place, and on this occasion, I choose to regard him as the poet of Ireland—fitly do we honour him who has honoured us—and we can so honour him, even though some weaknesses of his bright career have been exposed rudely and blazoned far; for he had rare virtues too.

"His love of Ireland ceased only with his being, and often found bold utterance, according to his conception of the truth, at the risk, and with the consequence, of evil to his fortunes. He was faithful to all the sacred obligations and all the dear charities of domestic life. He was the idol of his household. He clung to his humble parents with reverential affection in his day of greatness as when he prayed at his mother's knee, and kept himself poor that his family might have comfort. Temptations beset him on his course and tried him sorely; but he was true and brave as he was gentle, and of a manly spirit, which never brooked dishonour or abased itself for gain. All these things are remembered this day by Ireland, and she has not denied to him the prayer of his own most beautiful appeal. She does not 'blame the bard' who has done her such noble service. He has kept his promise, and fulfilled his prophecy—He has made her name to live in songs which are immortal—The stranger has 'heard her lament on his plains'—the sigh of her harp has been 'sent o'er the deep,' and she is grateful for his labours as she is proud of his fame. Therefore it is that we stand here to-day—men of every party, and creed, and condition in the land—forgetting the small strifes which fret us and the dissensions which hold us unhappily asunder, to strive, as Irishmen, with generous emulation, in guarding his memory as a glory to us all. And Ireland is well represented here—her old historic names—her aristocracy and her middle classes, and the mass of her community. A Charlemont, worthy of his sire,

is supported by a Geraldine of that great race, *Hibernicis ipsis Hiberniores*, whose love of country is their old inheritance. The head of the Bar of Ireland unites with her Surgeon-General, Moore's early and faithful friend, to speak for her learned professions. Merchants of the highest influence and position offer their tribute to the child of a Dublin trader, who, in his brightest noon of fame and his highest pride of place, was never ashamed of the class from which he sprung. With true hearts, our kindly people ring forth their plaudits for the poet whose verses are, to them, dear and familiar 'as household words'; and to consummate the occasion, the representative of Majesty graces it with his presence, and by his high faculties and generous nature Moore is not less appreciated because he was an Irishman.

"In such an assembly, my Lord Mayor, it is my high privilege to present to the municipality of Dublin this statue—the creation of an Irish artist, who by his works has done credit to the name he bears, and raised the reputation of his country. And I present it with the hope and prayer, that the feeling which pervades us here may outlive the passing hour and be fruitful of great results—that it may originate other celebrations such as this, of other men whose names we must never allow to perish—that it may make us, without pausing in our material and industrial progress, zealous to preserve all that is peculiar to us in literature and art, to maintain the venerable monuments which connect us with distant ages and vanished races, to cherish those historic recollections which are, indeed, 'the immortal life of an historical people,' and, by the earnest culture of a true national spirit and a just national pride, to prove ourselves jealous of the honour, devoted to the interests, and faithful to the fortunes of our native land."

In 1858, Mr. O'Hagan was appointed Serjeant-at-Law. In 1860 he became Solicitor-General, and in 1861 Attorney-General for Ireland. His conduct of the prosecutions arising out of agrarian or party questions was marked by a success unsurpassed up to that time.

In 1862, a vacancy having occurred in the representation of Tralee, Mr. O'Hagan sought the suffrages of the electors of that borough. A violent opposition was organised against him, grounded solely on the fact of his holding the office of Attorney-General, an opposition in which some of the clergy of his own Church took part; but he overcame that opposition, and was returned to Parliament for Tralee. In the same year (1862), he brought before the Social Science Congress in Dublin the Irish Reformatory system, which he had laboured not a little to develop.

In the House of Commons he was distinguished for his

attention to Irish business. To his exertions the public are indebted for the abolition of the old system of special or private bailiffs being entrusted with the execution of writs issuing from the county courts, and for the substitution of sheriffs' bailiffs. On the 25th of April, 1864, he brought forward his proposed measure of reform of the Court of Chancery practice in Ireland. His speech on this occasion was a remarkable one, and showed that he was perfect master of the practice and procedure of that court in which he was afterwards called upon to preside. He traced the history of the reforms of the Court of Chancery, both in Ireland and in the sister country.

Mr. Whiteside opposed the motion, on the ground that the cause petition system, established in 1850, had worked well, and had given perfect satisfaction. He, however, admitted that the Attorney-General for Ireland "had given the House a clear and able statement."

A vacancy having occurred in the Court of Common Pleas, by the retirement of Judge Ball, shortly previous to his death, in January, 1865, Mr. O'Hagan was elevated to the Bench on the 26th of that month. His elevation is thus noticed by the *Daily Express*, a journal well known for its anti-Catholic proclivities.

"Mr. O'Hagan possesses all the qualifications for an excellent judge, and all the claims to be elevated to the bench. It is due to the high position which he had attained at the Bar on circuit—to his learning as a lawyer, and his eloquence as an advocate—to his mental accomplishments, and his highly cultivated literary tastes—to his highly promising, though brief, career in Parliament, where he quickly attained a standing which less gifted men are never able to reach—to the efficient and impartial manner in which he discharged his duties as Attorney-General. He did not owe his advancement solely to the circumstance that he had the good fortune to be a Roman Catholic. He rose steadily in his profession by his talents, his industry, his energy, and at every step of his career he won the good-will and esteem of all parties by his honourable, gentleman-like, and kindly bearing, by the winning grace of manner and benevolence of disposition which secures friendship and disarms envy. This was proved in a striking manner in the address which was presented to him a few years ago by the magistrates of the county of Longford, most of whom differed from him in religion and politics. Mr. O'Hagan is more than an able lawyer, more than an accomplished orator; he is a statesman and a political economist, whose range of thought and sympathy extends beyond the sphere of his profession; and we may feel confident that in the discharge of his duties on the bench he will take no

narrow view of the great questions of jurisprudence and constitutional right that may come before him. Judge O'Hagan, we believe, will ascend the bench with the approval and goodwill of the whole community, without distinction of sect or party."

Mr. O'Hagan's career in Parliament, though short, was sufficient to give him popularity with all sections of the House, and he left it, on his accession to the bench, with the reputation of being one amongst those members of the Irish Bar who, while they won for themselves fame in St. Stephen's, were at the same time an honour to the arena.

In 1867 he was elected president by the Statistical Society, in succession to Archbishop Whately and Judge Longfield.

In the same year the subject of our criminal classes, to which he had long devoted himself, was again treated by him at the meeting of the Social Congress at Belfast. His lordship, in referring on that occasion to the Brehon Code, alluded to the deplorable neglect of the Irish language in the Queen's Colleges—a language which is now almost a wreck, long abandoned, without improvement, to the humble classes of society.

But even in its present condition the Irish language is one of the most effective instruments of oratorical persuasion by which the feelings of a religious and sensitive people could be roused, and regulated to any pitch. Were there no other monument to attest the early and superior civilization of our nation, it is indelibly impressed on its truly philosophical language: for if, as is universally conceded, language be one of the most unequivocal standards by which one can ascertain the degree of refinement reached by any people, the sententious and expressive aphorisms that give such a complexion to ours prove that those to whom it is familiar as a spoken dialect must necessarily be a highly intellectual people: its capability in literary composition may be estimated from this simple fact, that in the hands of the Most Illustrious and Most Reverend John Mac Hale, Catholic Archbishop of Tuam, it has become the means of translating fully and faithfully the choicest productions of Moore, the most refined of the modern, and of Homer, the most sublime of the ancient poets.

The learned judge spoke thus of its neglect in the Queen's Colleges:—"To the study of that ancient system (the Brehon law), which for so many ages held sway in Ireland, some of our children of the soil will be attracted, as if by 'ancestral voices' from the buried past. And for all the learned of Europe who have interest in the history of jurisprudence, and the archæology of law, it must be the subject of intelligent curiosity and useful investigation. I can say no more of it here; but having said so much, I should be untrue to my own feelings and con-

victions if I did not seize the occasion to add the expression of my great regret, that an end has been put to the study of the Irish language in those hospitable halls which are opening to receive us. You will find in them the amplest appliances for scientific and literary teaching, but amongst their accomplished professors there is not one to give instruction in the ancient tongue which is still sounding, with melodious sweetness and expressive power, amongst the glens of the fair county in which we are assembled. There is not one to help in training future O'Currys and O'Donovans, so that the remnants of our old literature, scattered in mouldering manuscripts through the libraries of Europe, from Copenhagen to the Vatican, may be saved from destruction, as the Brehon laws have been, and made available for the honour of Ireland and the benefit of the world.

"When the Queen's Colleges were established, each of them had a small endowment for a professorship of Irish. In two of them that endowment has been diverted to other purposes, and the professorships are abolished. As to the third, the same course is contemplated. The time was strangely chosen for such a questionable act, when Englishmen like Matthew Arnold and Professor Morley are labouring, with generous enthusiasm, to assert the dignity and celebrate the achievements of the Celtic race; when Germany produces an unmatched Irish grammar; and continental scholars, recognising the wisdom of Leibnitz, who urged the cultivation of the Irish language for the general purposes of European literature, have found, in the pursuit of Celtic studies, the necessary and efficient means of advancing ethnological and philological inquiry. Irishmen have been too justly reproached with being *incuriosi suorum*, but that reproach should not have found confirmation in a change so needless, so injurious, so little in harmony with the spirit of a self-respecting people and the tendency of thought throughout the world. I trust that the publication of the Brehon laws, and the attention it must attract to Celtic literature and jurisprudence, may contribute to make plain, and undo quickly, the mischief of this retrogressive step." He then proceeded with great power to condemn the project of imperialising the Irish tribunals, attracting of the bar to the English courts, and disposing of Irish causes there, leaving to us narrow jurisdictions and a debased profession, and making the capital of England the legal metropolis of Ireland also.

"Ireland and Scotland," he said, "have suffered enough from the action of excessive centralisation. They both have plain interest in resisting the further progress of that evil, and they can best resist it by maintaining such local institutions as may counteract the tendency of the elements of national life to with-

draw themselves from the extremities of the empire and gather at the centre of power and wealth, where success is worth the trouble of achievement, and merit is sure to seek distinction and reward. We may labour in all proper cases to assimilate the laws of the three kingdoms, giving for that purpose from every district what light and help we can reciprocally furnish; but we should maintain, for all, the integrity of their independent judicatures, in the assurance that they will not less enjoy the benefits of a common code if it do not aim to subordinate any one to any other of them, or unduly exalt a part at the expense of exhaustion and depression to the rest."

Mr. O'Hagan's labours on the Marriage Law Commission are well known to the world. They resulted in the report with which many of our readers are familiar, and which was presented to the House of Commons in the summer of the year 1868. All distinctions between the Catholic and Protestant clergy performing the marriage ceremony between Catholics and Protestants have been since swept away.

At the close of this year the Conservative government of Mr. Disraeli came to an end. Mr. Gladstone succeeded to office, and Mr. Justice O'Hagan was appointed Lord High Chancellor of Ireland. One hundred and seventy-seven years had elapsed since a Roman Catholic Chancellor—Sir Alexander Fitton—held the Great Seal. From the fall of James II. to the last quarter of the eighteenth century, the cloud of sectarian bigotry overshadowed the land. Then, as we have seen, during the progress of the American war, and owing to the principles thereby developed, a faint glimmering of light began to illumine the political horizon; but it was not until two-thirds of the nineteenth century had passed, that the glimmering; and the dawn, and the cold light of morning gave place to the full blaze of noon. Restriction after restriction was swept away from the creed of the majority, until at last an Act was passed by which the bench of the Court of Chancery, wrenched from the grasp of religious monopoly, was thrown open to the professors of the Catholic religion. The Right Honourable Thomas O'Hagan was chosen, worthy amongst the worthy, to inaugurate the beginning of the new era. On the 18th December, 1868, he was sworn into his new office, and the spirit of religious equality was enthroned in his person for the first time during long ages on the bench of justice in Ireland. He was sworn in by Sir Ralph Cusack, Clerk of the Hanaper, at the residence of the Right Honourable Abraham Brewster, the retiring Chancellor.

On Monday, the 12th of January, 1869, the new Chancellor took his seat for the first time in his court. The bar seats, the gallery, the side passages, were filled to overflowing by a people

who felt a just pride in the triumph of the principles of religious equality, and in seeing their fellow-countryman ascend to that lofty position by the force of his unaided ability, and without the stains of party strife. The *Irish Times* of the following day thus describes that event:—

“COURT OF CHANCERY—*Yesterday.*”

“Yesterday, being the first day of Term, the courts were opened with the usual formalities. The Court of Chancery was crowded to excess from an early hour, the bar seats being filled with ladies. At one o'clock precisely the new Lord Chancellor, the Right Hon. Thomas O'Hagan, attended by his purse-bearer, Mr. Lentaigne, and by his train-bearer, Mr. Armstrong, ascended the bench. The moment his lordship appeared in court loud cheers were given, which lasted for several minutes. The Chancellor was met on the bench by the Master of the Rolls, the Right Honourable John Edward Walsh; the Lord Justice of Appeal, the Right Honourable Jonathan Christian; and the Vice-Chancellor, the Right Honourable Hedges Eyre Chatterton. After remaining a few moments in conversation with the Chancellor, their lordships retired to their several courts. The present Lord Chancellor was called to the bar in the year 1836, and is the thirteenth Chancellor since the year 1800; the twenty-fourth since Sir Alexander Fitton, the last Catholic Chancellor under James II., and is the 118th in succession from Stephen Riddel, the first of the Irish Chancellors, in the reign of Henry II.”

Mr. O'Hagan immediately entered on the active duties of his new office, and in the Court of Equity he exhibited—Lord Campbell did so before him—the ability which distinguished him in the Court of Common Law. His able and elaborate judgment in the great and romantic case of *Croker v. Croker* will not soon be forgotten by those who heard it. In the books are many of his decisions which would reflect credit upon any Equity judge who had made them. We shall instance one, *Lord Lifford v. Quinn*, his ruling in which formed the basis of the decision of the present Chancellor, the Right Honourable John Thomas Ball, in the case of *Vernon v. Wade*. The present Chancellor thus speaks in the latter case of Lord O'Hagan's decision in the former one:—

“The application,” his lordship said, “was for an order to restrain the defendants, their servants and workmen, from taking sand from the foreshore of Clontarf, the property of Mr. Vernon, of Clontarf Castle; and he claimed to be entitled to that shore under a patent of Charles II., which gave it to his ancestors. The defendant had not got up any title or claim, neither had any other person. Many years ago the Corporation of Dublin

claimed to be the owners of the Clontarf shore, and contested the Vernons' claim, and were unsuccessful in that suit. The only other body that could lay any claim thereto was the Crown, and the Crown did not do so, but, on the contrary, had acquiesced in the plaintiff's title by reason of their purchasing some of the shore from him for the Coastguard station. That being so, it appeared that Mr. Vernon's title was not disputed; and he (the Lord Chancellor) from the moment he heard the case resolved to give an injunction; but he was met with the difficulty as to whom the injunction should go against. Now, the evidence of three constables of police was quite clear that it was the practice of others, not defendants here, to take away gravel from the foreshore. The question therefore arises, what description of bill this is? This is a possessory bill, and he found that all the learning on this class of injunction that could be collected was collected by his (the Lord Chancellor's) immediate predecessor in this Court—Lord O'Hagan—in the case of *Lord Lifford v. Quinn*; and in no other case that is in the books is there so much learning upon this very point as in Lord Lifford's case, reported in the authorized 'Irish Reports, Equity,' vol. vii., page 347. In Lord O'Hagan's exhaustive judgment every single difficulty that could present itself, in making a decree, is ably dealt with and removed. The most extensive relief that has been or could be given in a possessory bill must be given here to restrain not alone those defendants, but also to restrain all others not parties, not defendants. His lordship concluded by saying that he would grant the injunction in the terms of *Lifford v. Quinn*, and that he would follow the principles laid down in that case by Lord O'Hagan." Amongst other many remarkable judgments delivered by him when Lord Chancellor, we may mention those in *Davies v. Kennedy*, I. R. 3 Eq. 678, *Meades minors*, I. R. 5 Eq. 95, and *In re the Marquis of Waterford's Estate*, do., p. 436.

On the 8th of June, 1870, an announcement was made in the columns of the *Daily News*, that it was Her Majesty's pleasure to raise the Chancellor to the peerage of the United Kingdom as Baron of Tullahoge, in the county Tyrone. With the recent exception of Lord Acton, Lord Howard of Glossop, Lord Emly, and Lord Gerard, he is the only Roman Catholic commoner who, since the passing of the Act of Emancipation, has been raised to the peerage of the United Kingdom. The government were naturally anxious to secure the aid of his eloquence in the discussions which were then about to occupy the House of Lords upon the Irish Land Bill.

The Chancellor, immediately on his patent being made out, took his seat in the Supreme Court of Appeal in the House of Lords. The pending appeal was at the suit of the Earl of

Strathmore from the decision of the First Division of the Court of Session at Edinburgh; and it is worthy of remark that on this, the first occasion on which Lord O'Hagan sat in the Supreme Court, judgment was delivered by three of the law lords—one a Catholic, one a Protestant, and one a Presbyterian.

On the 23rd June, 1870, Lord O'Hagan spoke in his place in the House of Lords on the Irish Land Bill, which "he regarded as a happy reversal of the policy of the past, as a great attempt at reparation by a noble people for wrongs inflicted and endured, and a bright augury for a better future, which he trusted was opening for that country to which he was bound by every tie." Speaking of the relations of landlord and tenant, and of the relative improvements made on the soil by both those classes, his lordship said that "in Ireland, all improvements were made by the tenants," and he relied on the evidence of the Poor Law Inspectors, of Dr. Roughan,¹ and other witnesses, which corroborated this statement.

Lord O'Hagan advocated the creation of a class yet unknown in Ireland—that of "peasant" proprietors. The introduction of such a class would, in the course of time, have the effect of breaking up grass farms, and converting them into tillage. A great writer on the laws of England, and one of the greatest of her judges, Lord Coke, was of opinion that an agricultural, rather than a pastoral, was the true and healthy state of society.²

"Agriculture, or tillage," he wrote, "is of great account in law, as being very profitable to the commonwealth. By laying of lands used in tillage to pasture, six maine inconveniences do daily increase. First, idlenesse, which is the ground and beginning of all mischiefs. Second, depopulation and decay of townes; for where in some townes 200 persons were occupied, and lived by their lawful labours, by converting tillage into pasture, there have been maintained but two or three herdsmen; and where men have been accounted sheepe of God's pasture, now sheepe become men of these pastures. Third, husbandry, which is one of the greatest commodities of the realme, is decayed. Fourth, churches are destroyed, and the service of God neglected by diminution of church livings (as by decay of tythes, &c.) Fifth, injury and wrong done to patrons and God's ministers. And sixth, the defence of the land against forraigne enemies is enfeebled and impaired, the bodies of husbandmen

¹ The report of which the Chancellor here speaks was prepared in the month of January, 1870, by the writer of these pages jointly with Dr. Roughan, with whom he had been associated in making inquiries in the several Unions in the counties of Sligo and Mayo, in the Unions of Oughterard and Clifden, in the county of Galway, and in the Union of Manorhamilton, in the county Leitrim. This report was presented to the House of Commons in March, 1870.

² Co. Lit. 85, b.

being more strong and able, and patient of cold, heat, and hunger, than any other."

The Land Act passed, and Lord O'Hagan's opinion of that Act is best told in his own words addressed to the Statistical Society, on Thursday, 17th November, 1870. "This Act gives the tenant farmer protection, not in Ulster only, but throughout the country, more ample than in times gone by he ever dreamed of possessing. He was at the mercy of the landlord. The notice to quit was for him the sword of Damocles, which for ever threatened his social existence, and from which he was powerless to escape. The absolute will of the proprietor terminated his tenancy without condition or restraint, and he was very much in the condition of the serfs of France under the old *régime*—a *merci et miséricorde*. No doubt, in the vast majority of cases legal rights were not pressed to an extremity, though sometimes political vengeance or personal interest prompted their enforcement. Now, the tenant has a claim against the landlord merely by reason of the possession of his holding. The power to evict remains, but it is no longer absolute. . . . The Irish tenant who, by toil and thrift, has accumulated a little money, may look forward with fair anticipation of bettering his social position, and lifting his family to a higher station in the world. If a property be in the market, and he has a third of the money necessary, he can go to the Board of Works and obtain an advance of the additional two-thirds, which he is permitted to repay on easy terms in a fixed number of years. . . . The good landlord will not really feel the measure hard upon him, for it requires him to do very much as he had done hitherto, and as his own kindly instinct and sound judgment would have led him always to do, without legal pressure."

On the same occasion the Chancellor alluded to the defective state of the laws—to the absence of power in the county courts to enforce specific performance, to the marriage law, the law of lunacy, the jury system, the grand-jury system, the application to Ireland of cheap and facile machinery for securing the good government of towns, and the codification and revision of the statutes. Many of these defects have, owing to his laborious assiduity, been since ameliorated.

The Lunacy Act, the Local Government Act, and the Charitable Donations Act, were passed in the session of 1871, and in connexion with these several enactments the name of Lord O'Hagan will be gratefully remembered. The Lunacy Act has in many instances simplified and cheapened the procedure, particularly in cases where the application is of a temporary character, or where the property of the lunatic is small. It has substituted an inexpensive for an expensive procedure, and has provided for the efficient and periodical visitation of lunatics.

Of the recent discharge of the Fenian prisoners his lordship approved, and is reported to have thus expressed himself in the House of Lords:—"Although these men were guilty of treason—the highest crime, on account of the evils it brings in its train—they were yet enthusiasts, men who looked only to a political object, and were prepared to sacrifice themselves to its attainment. And when you come to consider the question in connexion with their discharge, although they were men who forgot their duty to the Crown—although they forgot the absurdity of opposing and encountering the full power of this mighty empire, whilst, within the constitution and the law, the people of Ireland have the fullest opportunity of achieving everything which they can legitimately desire—still you must remember that these men had an object which seemed pure and good to them at the time: and in considering whether they are to be dealt with mercifully or hardly, you must take this circumstance into account, or you will shock the common feelings of humanity."¹

The Gladstone ministry, in the month of February, 1874, came to an end. But we are now speaking of what is in the knowledge of everybody, and we shall therefore merely say, that on Saturday, 22nd of that month, Lord O'Hagan presided for the last time in the Court of Chancery. When his lordship had disposed of the business in the day list, and had given judgment in a case which stood over, the Solicitor-General, the Right Hon. Hugh Law, rose, and said:—

"MY LORD,—We understand that the delivery of the judgment we have just heard leaves no further judicial business to be done by your lordship, and that therefore you will not sit again in this court. Under these circumstances, I must ask your lordship to permit me, on behalf of the bar, to express our appreciation of the manner in which you have presided here during the last five years. We all cordially acknowledge the attention and patience with which you have ever listened to each one of us, as well as the kindness and unfailing courtesy which you have shown to us all from day to day, and the dignity with which you have throughout discharged the duties of your office.

"We feel that your exercise of the important jurisdiction committed to you as Lord Chancellor has been such as to command the respect and confidence of the bar and the public; and now that you are about to retire from amongst us, we desire to assure your lordship that you carry with you the very best wishes of the Irish bar for your welfare and happiness."

¹ Lord O'Hagan's speech in the House of Lords, *Hansard*, vol. 204, col. 1654.

The Lord Chancellor, who was much affected, said, in reply :—

“MR. SOLICITOR-GENERAL,—I am deeply moved by the words you have spoken, and by the feeling which they indicate on the part of the bar of Ireland. With that distinguished body it has been my pride to be identified throughout the chequered years of a laborious life. Never, in all its chances and changes, have I, for one instant, failed to maintain with them relations of cordiality and confidence; and now, when my judicial career is closing, I feel a just pride in receiving such a signal proof that those relations have continued unbroken to the end.

“Fully aware of many shortcomings, I am yet conscious that I have striven to fulfil the duties of my great office with impartiality and faithfulness; and the presence of the eminent persons who have thronged to meet me to-day is their spontaneous assurance that I have not striven entirely without success. I pass from the bench, remembering with the truest pleasure the uniform courtesy, consideration, and respect which I have received, at all times, from all the members of the bar, to whom I have so long had the daily privilege of listening in this Court: and I should be the most ungrateful of men if, in the coming years and in the new sphere of activity on which I may enter, I should not be eager and earnest on all fit occasions to aid in advancing the honour and the interest of our noble profession. I believe that the maintenance of the Irish bar and the Irish bench in full integrity, efficiency, and independence is essential, in the highest sense, to the welfare of Ireland, and I trust the day may never come when either of them will lose its lustre or sink into decay. Again I thank you for your great kindness, and with a full heart and a faltering tongue I bid you all farewell.”

The entire bar, rising from their seats, greeted the conclusion of the Lord Chancellor's speech with loud applause, which continued until he had left the Court.¹

The noble and learned lord, in retiring from the Irish bench, did not give up the active duties of judicial life. In the Court of Ultimate Appeal in England, associated with the great judges of that country, he has sat almost continuously, nor does a volume of the Law Reports appear which does not contain several valuable judgments from him. Neither are his labours confined to the House of Lords and to the expounding of the laws of the British Isles and their wide dependencies; the codification of the Law of Nations has occupied much of his attention; and in the city of Antwerp, on the 30th of August, 1877, he delivered

¹ *Irish Times*, 23rd February, 1874.

an address at the opening of the fifth annual conference of "The Association for the Reform and Codification of the Law of Nations." The object of this Society is, as the name imports, to bring into harmony, at least to some extent, the laws and usages which mutually affect the several families of our race in their inevitable transactions with each other, and so diminish the occasions of contention, and promote amity between them.

Later on in the same year, on the 4th of October, his lordship delivered an address on the opening of the Letterkenny Literary Institute in the county of Donegal. Having told his audience that he was no stranger in their county, he said:—"I have been long familiar with its scenery and its annals. I have not been unconscious of the common pride of Irishmen in a district forming, with its gray mountains and pleasant valleys, one of the loveliest portions of that girdle of beauty which compasses round about the shores of our island, and I have shared their common interest in the brilliant deeds and sad reverses which have made your local history so picturesque and touching. I do not forget the relations of your ancestors, in the ages that are gone, with the old Celtic stock, to which I am proud to owe my origin; or the struggles, the triumphs, and the sorrows which once associated, for good or for evil, the fortunes of Tyr-Connell and that fair Tyr-Owen, in which my fathers dwelt. With such feelings and such memories I am glad to be amongst you."

His lordship then enlarged on the benefits to be reaped from the Institute, which was to afford a library, a reading-room, a circulating library, a fine lecture hall, and a schoolroom of great proportions; a billiard-room, ball courts, and things of a like kind, all of which would wean men from the dangers of dissipation. He then reminded them how the Civil Service was open to all, and how Irishmen have forced themselves everywhere into an honourable recognition—

"Abroad, they have risen to the most coveted and eminent posts. A Northern Irishman directs the commerce of the Chinese Empire. Another Northern Irishman—a very dear and honoured friend of mine—after holding, with high distinction, the premiership of the great dominion of Victoria, now occupies the foremost place in its legislative assembly, by the unanimous choice of the representatives. Our colonies have had—I believe every one of them had—Irish governors; and a distinguished compatriot of your own, born almost within a stone's-throw of the place in which I stand, has held the dignity successively in Queensland, New Zealand, and Victoria. I cannot speak as I would wish, in his own presence and that of his venerated brother, of another Donegal man, who reached, at an early age, the highest position at the bar of the colony in

which he had chosen to commence his professional career; and, having well and faithfully discharged the high functions of its Attorney-General, has returned—at once with youthful vigour and ripe experience—to win new honours in his own land.

“I have thought fit to refer to these things, because such examples of well-won success may profitably excite honest emulation and rouse dormant energy; but it is not needful that I should appeal to recent events, in this historic region, where thronging memories of the past connect themselves with your effort of the present, and impel you to make it worthy of the men who have gone before you.

“The memories of Donegal are proud though they are mournful. I do not ask you to recall the days of pomp and splendour when the O'Donnell stood upon the Rock of Doon, and received from the successor of Columb-Cille the white rod which symbolized at once the authority, the purity, and the justice with which he promised to wield the sceptre. Nor shall I stir you with a narrative of the conflicts of the time when a Fitzgerald, the bravest of the Anglo-Norman race, encountered the chieftain of Tyrconnell, and each fell, fighting, by the other's hand. Nor shall I tell the sad story which, to this hour, so touches the hearts of Irishmen, of the flight of the great Earls from the Rathmullen shore to hide their broken fortunes in the obscurity of exile, and yearn through dismal years for return to the land they loved, until foreign earth received their dust in the capital of Christendom.

“But it is fit and becoming that I should ask you to remember, whilst we inaugurate an Institute designed to diffuse knowledge and improve morality, that Donegal, in the distant past, when intellectual darkness was settling down upon the world, and the ruin of Imperial Rome was followed by barbarous anarchy, had teachers, eminent alike for their learning and their sanctity, directing schools which possessed liberal endowments and gave sound instruction, not to the Irish only, but to those who sought it from afar:—*amandati in Hiberniam ad disciplinas*. The most conclusive evidence assures us that, in the sixth century, Moville and Clonard and Derry had seminaries whose masters were of high repute; and in that century, to be trained in those seminaries, was born, close to this town of Letterkenny, the illustrious man to whom, it is said in your ancient Martyrology, the Apostle of Ireland prophetically gave the title of *Dove of the Churches* (Columb Cille). He was at once, a poet, a scholar, and a saint. In his own country he was the founder of many schools and monasteries. He encouraged the bards of his time to preserve the muniments of their nation; and when his zeal in God's service drove him to carry the glad tidings of salvation to the Scottish Isles—radiating from Iona the light of learning and religion across tempestuous seas, and spending him-

self in toils and wanderings to evangelize the people of Britain—he continued to be an earnest student, and left writings behind him which justified the eulogium of Adamnan, his biographer and successor, on his eloquence and wisdom. On such an occasion as this there is a special fitness in the reverent recollection of one so wise and holy, who always combined intellectual labour with his works of piety and mercy; and whose name, after 1400 years, is still dear to the hearts and blessed by the tongues of the people around us.

“One remembrance more it behoves me to awaken—that of the ‘Four Masters,’ to whom we owe the preservation to Ireland of the mass of her historical recollections, which, but for their labours, must, to a great extent, have perished for ever. When they gathered with pious care the ancient records which had been spared by time and civil strife, and made a faithful digest of them in those Annals which O’Curry describes as ‘the largest collection of national, civil, military, and family history ever brought together in this or, perhaps, any other country,’—they did not know the value of the service they were rendering. They did not know that days, even more evil than had been theretofore her miserable portion, were coming to afflict their country, in which many of those precious records must, probably, be destroyed. The mischief was averted by the devotion of Michael O’Clery and his Franciscan brethren; and if Ireland shall ever possess a complete and authentic history, she must acknowledge, with gratitude, that she owes it largely to the monks of Donegal.

“There are other local memories on which I would gladly dwell, as full of interest and instruction on such an occasion. But I have already outrun the time allotted for my address; and I have said enough to justify me in asking whether the emotion roused in you, I doubt not, even by this brief recurrence to the lives and doings of famous men, does not stir you with some ambition to imitate them, however humbly, by aiding in a new endeavour for the cultivation of that love of knowledge, of virtue, and of God, which once inspired them on your native soil.

“In conclusion, let me assure you of the true pleasure I have had in meeting you for a purpose so very worthy, and of the value I attach to the more than cordial welcome you have given me. To me, this day will be always memorable for the kindness of which I have been the object. And to you it may be memorable also, as that on which you inaugurated, under fortunate auspices, an Institution—destined, I trust, to promote liberal culture and pure morality for many generations—in an assemblage which, by its rare union of adverse creeds and parties for one noble end, does honour to Ulster and is of the happiest presage for the future of our country.”

We have now brought our memoir to the present year, and it is with pride we notice the fact that the days of national and religious antipathies are consigned to oblivion; and that the present Lord, Chancellor of Great Britain, Lord Cairns, an Irishman of whom Irishmen are proud; he a Protestant, and a member of a Conservative government which introduces the "Intermediate Education (Ireland) Bill," finds a supporter for that measure in Lord O'Hagan, a Catholic, and member of the late Liberal government. "The conception of that measure is due to an eminent Irishman, Mr. Keenan, resident Commissioner of National Education, who in 1869, at the instance of Lord O'Hagan, then Lord Chancellor of Ireland, and of Lord Emly, then in the Colonial office, was deputed to report on the educational difficulties that had arisen in the distant island of Trinidad. He did so, and made those suggestions which afterwards, with some slight alterations, met with the approval of the Imperial and local authorities, and which are almost identically the same with those which have been now applied to Ireland."¹ Lord O'Hagan's speech in the House of Lords in support of the bill is worthy of being scattered broadcast over the country. It opened by the disclosure of a fact, which is not generally known, that in the Excise and Customs department the Irish successful candidates outnumbered those from England and Scotland put together. He said:—

"My lords, Scotland contains $10\frac{1}{2}$ per cent. of the population of the United Kingdom, England $72\frac{1}{2}$, and Ireland 17 per cent. Since 1871, there were 1918 places in the Excise and Customs disposed of by public competition. For these places there were 11,371 candidates—11 per cent. Scotch, 46 per cent. English, and 43 per cent. Irish; and of these, Scotland gained 6 per cent., England, 38 per cent., and Ireland 56 per cent. Of every 100 Scotch candidates, 9 passed; of every 100 English candidates, 14 passed; and of every 100 Irish candidates, 22 passed.

"My lords, the statement is not mine, or made according to my calculation. I offer it as that of the Executive Government of Ireland, formally pronounced by the distinguished nobleman who now represents the Sovereign in that country, at the annual dinner of the Lord Mayor of Dublin in February last. It will probably astonish you; but it only comes in sequence to a number of such startling narratives, made, year after year, by successive viceroys, ever since competitive examination opened a new career to the young men of Ireland. They have uniformly been, in a high degree, honourable to the industry and intellect of her people; and they will not indispose your lordships to

¹ Introduction to Lord O'Hagan's speech, published by Gill & Son, 1878.

aid in opening a new and fruitful field for that industry and intellect, because they make more flagrant and intolerable the want of the higher culture which, to this hour, is denied her.

"The Irish boy," his lordship said, "can distance his competitors in striving for the humbler posts in the public service; *but there he must bound ambition and abandon hope.* If he wishes to look beyond them, and raise himself by honest effort to a higher position in the world, the way is barred against him. Almost every lad in Scotland has a classical school within easy reach of his home. A few years since, a fifth of all the students of the University of St. Andrew's are said to have been the sons of labourers. Ample endowments, scattered broadcast throughout England, invite her people to progress and to honour. And, accordingly, at home and abroad, the youth, so favoured, have chances in the world for which the poor Irishman longs in vain, whatever may be his faculties and aspirations. He cannot compete for the offices which are the reward of a more liberal training; and he continues, here and in the colonies, 'a hewer of wood and drawer of water'—from no natural inferiority, from no social or legal disqualification, but from the lack of that needful intelligence to which the State neglects to help him, and, by its own action, has denied him the means of approach which he formerly enjoyed.

"My lords, a million of children are educated in the national schools of Ireland. About the age of fifteen, they exhaust the sources of instruction which these schools supply; and, if they fully avail themselves of their opportunities, they may be, so far, amongst the best informed boys in Europe. *But, from that time forth, they are without aid to advancement,* though they may find within them the impulses of genius, the love of labour, and the consciousness of being worthy of a better destiny.

"When the census was taken in 1871, there was, in all Ireland, of the entire Catholic population, one in 923 learning Latin, and of the Protestant population, one in 259; whilst, of the Catholics, one in 1209 was learning Greek, and of the Protestants, one in 398. The figures are eloquent. They prove how sad has been the decadence of intermediate education in latter days; and they show, also, that the Catholic majority suffer most from it, and have the deepest interest in a proposal to remove the blight which is withering up their intellectual force. They suffer from it in every way; but its baleful effect is especially conspicuous in the disproportion between their total number and that which they supply to the various learned professions. I shall not weary your lordships by a detail of the statistics by which this is demonstrated. You will find them abundantly in the Report of the Census Commissioners, which proves that, in spite of the destruction of sectarian ascendancy,

the religious equality, which has been legally established, has not given to the majority of Irishmen the social position they ought to hold in their own land."

His lordship then deals with the dismal history of the past : He says:—"The history of Ireland contains no blacker page than that which describes the dealings of her rulers with the education of her people. It gives them no stronger claim to redress and reparation from the Imperial Legislature. Down to our own times, every successive act of British statesmanship which affected their mental and moral training was designed and administered in the spirit of an intolerant sectarianism, aiming at the propagation of religious tenets which they rejected, and to the adoption of which they could neither be corrupted nor coerced. They were asked to purchase knowledge by the sacrifice of faith. They refused, with heroic obstinacy ; and they triumphed, after suffering and sacrifice such as have rarely defied the cruelty of persecution, and vindicated the liberty of conscience. Not the desolating wars of Elizabeth ; not the ruthless massacres of Cromwell ; not the repeated confiscations which spoiled the old possessors of the soil, and made them fugitives in bogs and mountains, or homeless wanderers in foreign lands ; not the commercial jealousy and high-handed injustice which palsied industry and extinguished manufactures : not these, or the many other destructive influences which, for ages, made Ireland miserable, were so calculated to secure her perpetual degradation as the infamous statutes which deliberately attempted to keep in compulsory ignorance four-fifths of her inhabitants, and so trample out her intellectual life, and, with it, all hope of her social redemption. Under that abominable system, a Catholic parent could not instruct his own child ; a Catholic teacher could not bring up a Catholic pupil, save under penalties of the most barbarous kind. From all the means of instruction Catholics were shut out ; all Catholic education was absolutely prohibited ; and it is difficult to conceive how, under such circumstances, the Catholic people did not sink into a state of brutal and hopeless debasement. But they did not. In the darkest days they kept the light of knowledge still glimmering faintly. Their eagerness for it never slackened. They never ceased to struggle for it ; and, in the struggle, they were always helped by the Catholic priesthood, and by humble teachers in obscure places who ventured to pursue their noble calling in spite of the inhuman law.

"The Act of Henry VIII., which required the establishment of parochial schools, was never really enforced ; and, if it had been, would probably have repelled, in its operation, the mass of the community.

"The Endowed Schools, which gave Ulster a special advan-

tage, as they were founded in connexion with the plantation of the province, although not legally exclusive of Catholics, were practically so, and were believed to be so, until a very recent period. They were of small advantage, admirably as some of them have been recently conducted, in relation to the real necessities of the country.

"The Charter Schools hoped to evangelise Ireland by appealing to the basest motives, and outraging the best feelings of the human heart. They made the relief of misery conditional on apostacy from the Church which was dear to the people. They took children from parents in the name of religion, and were authorised by the Legislature to render the separation lifelong. They flourished for nearly a hundred years. But their monstrous abuses at last brought them to ruin. Wesley and Howard combined to denounce them; and the latter, in one of the most meritorious acts of his noble life, induced the Irish Parliament to inquire into their condition, describing their pupils as 'sickly, naked, and half-starved,' and the whole system as a deplorable disgrace to Protestantism. That system then got its death-blow; but its hideous existence lingered on to the nineteenth century, and it perished at last, leaving an evil memory, to the perpetual execration of mankind.

"Then came the Kildare-place Society, which laboured in the same direction—with diminished virulence, and with equal absence of result—to undermine the ancient faith of Ireland. It also failed, and was succeeded by Lord Derby's proposal for a plan of national education which abandoned the hopeless work of proselytism, repudiated the very suspicion of it, and aimed to give the humbler classes separate religious and combined secular instruction.

"To that plan there was much and obstinate resistance. It was assailed from the most opposite quarters, and on the most inconsistent grounds. But it has gone on, prospering and expanding. It has filled the island with its schools, and borne into every district the means of information. I have indicated to the House the remarkable results of its operation in connexion with the Civil Service; and they are manifested in many other ways. But they have not all been beneficial—

'Surgit amari aliquid de fonte leporum!'

They have, undoubtedly, tended to destroy multitudes of schools which gave the people the chance of a classical and scientific education. The masters of those schools were maintained by the contributions of the majority of their pupils, who were satisfied with such instruction, in English, as they could obtain. The minority, who desired a higher culture, only afforded a small supplement to incomes which were very moderate. And

when the State drafted away the children of the poor, in tens of thousands, by its liberal subventions to the National Board, the schools which had been kept in a struggling existence were inevitably extinguished.

"The evil so wrought has been very grievous, and it is not unreasonable that the Legislature, which—indirectly and unconsciously, and with the best intentions—has produced that evil, should be urged to supply a sufficient remedy.

"Equally in the south and in the north the old schools have perished. In Kerry ripe scholars used to be found along its lakes and in the recesses of its mountains. In the noble province where the Lord Chancellor and I first saw the light, Down had modest seminaries, which sent many a distinguished man to the legal and clerical professions. Tyrone was called the Kerry of Ulster; and I cannot better inform your lordships as to the change which has been accomplished, there and elsewhere, than by citing some words from a remarkable memorial presented to the Board of Education by the inhabitants of Newtownstewart, praying that classics and French might be introduced as a branch of the teaching of the National Schools in that town and neighbourhood."

He then cited some very remarkable passages from the Newtownstewart memorial, and proceeded:—

"These are, surely, striking and persuasive statements; and they are applicable widely throughout the Irish counties. Of themselves, are they not abundant to demonstrate the calamitous change which has occurred, and the absolute need of prompt and decisive action to undo its mischiefs, and prevent the recurrence of them?

"Representations, such as I have cited, have been pressed repeatedly on the National Board, and have induced it—perhaps without sufficient authority so to dispose of funds provided for primary education—to offer some small result fees to teachers instructing in classics, before and after the ordinary school hours. But the utmost which could be given in that way was manifestly inadequate to the exigencies of the case; and I find that, in the last year, only 305 pupils enabled the masters to take advantage of it by passing in Latin, and 90 by passing in Greek.

"The Report of the Census Commissioners of 1871, one of the ablest and most instructive official papers ever produced in Ireland, is sadly conclusive as to the lamentable deficiency of intermediate education. My noble and learned friend on the woolsack has already so fully detailed the figures which forced them to proclaim that deficiency in the strongest terms, that I shall not weary the House by repetition of his statement. They

declare, with deep regret, that all available evidence points, in this grave matter, to rapid retrogression.

"No wonder that the intelligence of Ireland has been alarmed by such a state of things. The outcry against it has been unanimous and universal. In 1857 the Endowed Schools Commissioners testified to the anxiety displayed by people of all parties and religions, in every district of the country, for some supply of middle class instruction, for some assistance to those who were willing and earnest to seek advancement by honest industry and mental cultivation. The Commissioners urged compliance with the demand in emphatic language, and suggested the adoption of a scheme, in some of its principles, fully accordant with the bill before your lordships. But twenty years have gone, and their recommendations remain barren of result. Our condition is worse than it was, and year by year grows more deplorable. We do not move one hour too soon. We cannot afford to wait any longer.

"For, my lords, the state of things I have weakly attempted to describe has had its necessary consequences. The intellect of Ireland—I borrow the strong words of the Census Commissioners—has been 'starved and dwarfed.' A moral paralysis has deadened it. The people have ceased, to a large extent, to know or care for a high and wholesome literature. Bookshops are vanishing from the towns. The publishing trade, which in the last century was large and flourishing, is almost extinct. Once, the presses of Dublin teemed with expensive works—encyclopædias, dictionaries, classical and scientific treatises, and others—such as an educated community demands and will procure. But the production of such works has almost ceased. Those who read must look abroad for the means of indulging their intellectual appetite. The excellent editions which enabled Falconer and others, a hundred years ago, to compete with English publishers are to be had no more. And the literary ability of Irishmen, finding scant encouragement at home, is driven to seek distinction and reward in other countries.

"There is material progress. The masses of the people are more comfortable than those who went before them. They no longer suffer from chronic destitution; they do not dread the frequent famines of other times. They have an interest in the soil which was denied to their forefathers, and a security in the fruit of their industry which affords them a future full of happy promise.

"There is moral progress too. Crime has marvellously diminished. The social warfare, which issued so often in murderous outrage, is waged no longer with the violence of other days. Earnest religious faith penetrates the national

spirit; and, in purity of morals, Ireland need acknowledge no superior amongst the countries of the earth. It is sad that a people with such good gifts should have been allowed to pine in mental inactivity. They have not many of the advantages of other nations. They have not the iron or the coal of England, her ships, her manufactures, or her commerce. But they are rich in the faculties of the mind—in keenness of apprehension, and liveliness of wit, and facility of acquisition; and in the cultivation of those faculties they have been conspicuously successful, whenever they have had the opportunity of being so. My lords, I believe that the measure now offered to your lordships will yield them such an opportunity of utilising their dormant powers, and, therefore, I press for the adoption of it, without hesitation and without delay.

“My lords, I shall not occupy your time by any discussion of the details of the bill; they have been already lucidly dealt with by the Lord Chancellor. To some of them I might be disposed to object; some of them might, in my opinion, be improved; but the session wears towards its close, and I shrink from the responsibility—by act or suggestion of mine—of putting it in peril. Almost any controversy at such a period might be fatal to it; and I should hold myself criminal if I assisted in postponing or defeating a scheme which promises such benefits to Ireland.

“It commends itself to me as an honest effort to supply an unquestionable want in a just and judicious manner. It respects the rights of conscience. It cannot offend the religious sentiment of any reasonable man. *It is absolutely impartial, in dispensing, with an equal hand, the public bounty amongst the subjects of the realm. It will encourage the enterprise of teachers, and, in the absence of endowments which at present are unattainable, supply some means for the increase and improvement of scholastic establishments, without vexatious meddling in their internal administration. It will stimulate honourable ambition, and give humble merit, striving against adverse circumstances, opportunity of recognition and assistance to success. And to these excellent purposes it dedicates a fund which could not be more fitly applied, in making reparation for the evil past, and heralding the better future.

“My lords, if the fair promises of this Bill be realised, we shall yet see the Irish people, self-reliant and self-respecting, redeemed by the power of an awakened intelligence. Too many of them have mourned lapsed opportunities and baffled hopes. Too many have passed from childhood to adolescence, and from youth to age, and gone to the grave without the culture which would have enabled them to rise to the level of their own capacities, and improve and exalt their

country. A brighter day has dawned. A happier prospect opens before them. Legislation like this will rouse them from their mental torpor, and inspire them with courage for the battle of life. The pool of Bethesda was sluggish until the angel stirred it, and a healing grace descended on its waters. The bones were dry and formless in the vision of the prophet, but the spirit moved upon them, and they grew to shapes of strength and beauty. And, with God's blessing, the influence of this measure and those which may succeed it—with as sound a principle and as wise an end—will launch Ireland on a great career, and help her to pursue it with hope and energy."

* Lord O'Hagan married, first, Mary (died 1868), daughter of Charles Hamilton Teeling, Esq., of Belfast; and secondly, Alice Mary, youngest daughter of Colonel Charles Towneley, of Towneley, Lancashire.¹ By his first marriage he was father of six children, of whom only one is living, the Hon. Frances, married in 1865 to John O'Hagan, Esq., Q. C. By his second marriage his lordship has had two children—the Hon. Kathleen Mary O'Hagan and the Hon. Thomas Towneley O'Hagan.

We shall now conclude—our work is done. We have related the history of the lives of one hundred and eighteen Chancellors, who held the Irish Seals during the long period of seven hundred years, from Stephen Riddel to Lord O'Hagan. We have summoned up before us the nobles of the Anglo-Norman, and the princes of the Celtic races. We have seen the struggles of the rival creeds—the supremacy now of the one, now of the other. And we have rejoiced when the true spirit of Christianity

¹ The Towneleys, of Towneley Hall, deduce their descent from Spartlingus de Towneley, who lived in the reign of Alfred the Great. And from that time to the present, during a space of a thousand years, they have taken their rank foremost amongst the untitled aristocracy of England. The Towneleys were one of the few families who refused to change their faith at the pleasure of the sovereign during the severity of the penal laws. Colonel Towneley was, in 1836, married to Lady Catherine Harriet, fifth daughter of the Earl of Sefton, Lord Lieutenant of Lancashire. His predecessor and namesake, Charles Towneley, was the well-known connoisseur and patron of the fine arts who collected the Towneley Marbles now in the the British Museum, of which he was one of the trustees, and of which Lord O'Hagan, as representing the family, is now a trustee. The late Colonel Towneley was a Deputy-Lieutenant, a Fellow of the Royal Society, Fellow of the Society of Arts, and Fellow of the Academy of Sciences. He represented Sligo in 1848, and again in 1852-3. He was High Sheriff of Lancashire in 1857, a magistrate and Deputy-Lieutenant of the county, and Colonel of the Lancashire Volunteers. Colonel and Lady Catherine Towneley had three daughters, Caroline, who, in 1858, married Lord Norreys, eldest son of the Earl of Abingdon, Lord Lieutenant of Berkshire. The second daughter, Emily, married, in 1868, Lord Francis Lennox, third son of the late and brother of the present Duke of Richmond; and both daughters have issue. The third and youngest daughter, Alice Mary, is married to Lord O'Hagan.

placed all of them, so far as civil rights are concerned, on one common level. We have had to examine laws and customs, and a state of society different from our own, and we have had to view these laws and customs, and that state of society through the medium of our modern civilization. Biography is the handmaiden of history, and, like history, should search after the sources of things. Happy would we be could we think that we have fulfilled our mission; happy, if we have been able so to hold the scales that the merits and the demerits of the various opinions, and civilizations, and races of men who came before us for judgment, have been weighed out duly. How difficult the task, let those tell who, like us, have lifted up the shroud by which the past is covered. For ourselves the work has been a work of love; and even if the judgment of others on the completeness of our work reward us for our labour, we know not still whether we shall rejoice in parting from that which has been so long the occupation of our leisure hours. It was a pleasure to search into the gloom of the past, to pass in review the venerable forms of the great men of other days, to live with them and to see things in the light in which they saw them. And surely they *were* great men—many of those with whom we have had to deal—men who left their impress on the ages that came after them. And well may it be the boast of the present generation, and of the generation that preceded it, that the great Chancellors they produced—Mitford, Ponsonby, Plunket, Sugden, Napier, and O'Hagan, have equalled and surpassed the greatest of the Chancellors of former times. Of the last, *clarum et venerabile nomen*, we shall say little in addition to what we have already said. The records of his court are the best eulogium on the Chancellor. He stands prominently before the present and the future as the first, during long ages, of a once proscribed religion, who was allowed to sit on the highest of the thrones of justice. He has been, what it so well befitted a son of his tribe to be, chief Brehon of this Irish land. He has added one to the few coronets that have been placed upon the brows of the children of the Celtic race. Let us hope that the example he has set will encourage others to follow in his footsteps, and that he himself may long wear the honours he has won.

NOTE.—As the object of the foregoing pages was confined to the Lord Chancellors who have heretofore held the Great Seal of Ireland, we do not speak of the distinguished lawyer, orator, and scholar, John Thomas Ball, who now holds that high position.

APPENDIX.

NOTE, PAGE 22.

RICHARD TALBOT, ARCHBISHOP OF DUBLIN.

IN our memoir of this Chancellor, it is stated, *supra*, p. 22, fourth last line, that "in 1428 a parliament was held in Dublin, when a memorial was drawn up" and despatched to the King. That document, which is as follows, demonstrates the lawless state of society in this country, and the dangers of travel in England, during the early portion of the 14th century, as also the desire of the Irish Parliament that the Irish law students should continue, as in times past, to resort to the English Inns of Court.

"Sovereign Lord—These are the articles which we, your humble lieges, the Lords Spiritual and Temporal, and Commons, of your land of Ireland, at your Parliament held in your city of Dublin, assembled before John Sutton knight, your Lieutenant in the said land, the Friday next after the feast of All-Hallows: We commissioned Henry Fortescue, Chief Justice of Ireland, and Thomas Strange, knight, to deliver to you those articles that follow. First, that your said land, for want of good government, suffered by burning, robbing, taking and killing of your liege people here by your Irish enemies, of which misfortunes, you and your worshipful and wise council there had notice, graciously remedied by sending over one to us to be your Lieutenant, and for which we thank you with all our hearts. And your said Lieutenant, since his coming here, with manly diligence hath made war on and rebuked your said enemies, and hath burnt and destroyed their corn, broken and ruined their castles, and cut down their woods, slaughtered your enemies, burnt their houses, and greatly impoverished them; so thanks be to God, we, your liege people here, are now sheltered from the malice of your enemies; and our persons, corn, houses, and goods, are secured from the burning, robbing, taking away of those men. And we beseech you that your said Lieutenant may receive your thanks, which he well deserves, for the great labour and diligence he has been at, so that he may have the more courage further to prosecute his said labours.

"We, your lieges, also beseech that your said Lieutenant may have good and hasty payment of his salary, remembering that he hath been

at great personal expense in supporting horsemen and footmen over the number allowed to him.

"Also that divers clerks, merchants, and other honest persons from Ireland, have travelled in England, from Chester to Coventry, Oxford, and London, and of late have been robbed of their horses and goods, and they themselves imprisoned, and some of them beaten; and we beseech of you, that steps may be taken to prevent a recurrence of such outrages.

"We also beseech of you to consider the services of James, Earl of Ormond, to your father, and to you at all times; and that he be thanked by you for his said services, that inasmuch as the laws of this land in every of your counties at all times have been used both in pleading and in giving judgments according to the laws used in England, and the learned men here have learned your said laws in the Inns of Court in your realms of England, and they have now been refused to be admitted into the said Inns of Court, contrary to ancient custom that hath been used in times before this; and we beseech you that ordinances may be made there, that your liege people of this land that go into England for their said learning may be received into the Inns of Court as they have been of old times, so that the laws in this land may be continued to be learnt, considering that otherwise, when those who are now learned therein may be dead, there shall be none in this land that shall know your laws, unless it be learnt there, which shall be a great disprofit to you and a great misery for us your poor lieges. . . . And at the special request of us, the Right Reverend Father in God, Richard, Archbishop of Dublin, your Chancellor, in your said land, hath affixed your great seal of your said land unto this our message. Written at your said city of Dublin, the said Friday after All Halwenday." (Close Rolls. *Betham's Hist. of the Constitution of Ireland*, p. 353.) (*Proceedings of the Privy Council*, vol. 6.)

NOTE ON PAGE 31, LINE 5.

SIR ALEXANDER PLUNKET.

The following is the Will of Sir Alexander Plunket, referred to in the text:—

"I bequeath my soule to Almighty God, my body to be buried in the sanctuary of St. Lawrence of Rathmore: my will is that my son and heir, Sir Christopher Plunkett, Sir Thomas Plunkett, and Margaret Butler, my wife, shall be my executors. My will is, if any of my sons or any of their stock rebel and leave the country, that my son and heir enter into all his lands. Item: I leave with my sons, that if any variances happen between them, they come to Kells, and there to abide as brethren, and they all to wait on "some person whose name is not mentioned" in the king's service, and they all to be his, and he that will otherwise do, I leave that he forfeit a certain sum of money or fine" (without mentioning what sum). "Item: I leave daily wages to my sons upon the afore-

said Lord of Rathmore as he and they agree, and that none of them take maintenance one against the other, and who of them buy lands or other bargain, that every of them help him that bargains, and so prefer one another in all good." The Chancellor then proceeded to make devises of his goods and possessions to and amongst his sons and daughters—to his daughters 100 marks each (£66). He next created a fund "for the endowment of a priest for my father and mother's soules' sake, and for the soules of all them that I have taken any of their goods, with their will or against their will, and for all Christian soules, to sing and say mass before St. Lawrence in the church of Rathmore for ever. Item: I leave with my sons, if there be any that hath the order of their own brethren and kinsmen, never to vary from the way of blessedness; and who doth contrary I will leave him my curse, if he be not reformed; and if my children cannot agree, they shall go to two or three of their best kinsmen, and to be sayd by them; and I also leave upon blessing that none of my sons take wages [employment] of any man that shall be against his brethren; but of my heir, the Lord of Rathmore, also I leave that my son and heir shall wage (*id est*, employ) all my sons, and they shall go with none other to do the king's service. Any one that hath a better title to my lands than I have myself, the best title shall have the lands. I discharge my own sowl, and charge the sowl of them that shall hold the same accordingly. Item: I leave all my cows and garrons with my son and heir, and I do leave with the four riders four pecks of wheat, four pecks of malt, and four pecks of Keave malt."

ALEXANDER PLUNKET, *Chancellor*.

PAGE 67, LINE 20.

The bones of Archbishop O'Hurley were interred in St. Kevin's churchyard, Dublin. Multitudes of pilgrims have for three centuries thronged to his tomb, which the fancy, perhaps the superstition, of the people clothed with many legends. One is, that on dark and tempestuous nights, the spectre of the murdered archbishop, arrayed in mourning and gory vestments, is to be seen reading the canon of the Mass by sickly lights, on a phantom altar raised over his grave, but when he comes to "the rising of the Host," the lights are out, and the altar is gone!

PAGE 88, LINE 26.

WILL OF SIR MAURICE EUSTACE.

"In the name of the glorious Trinity, Father, Son, and Holy Ghost, three persons and one God, blessed for evermore—I Sir Maurice Eustace, Knight, Lord Chancellor of Ireland, having been and being by

God's signal providence brought through many good alterations and changes, which I have met with in the wilderness of this world, where I have had to do with unreasonable men, to a good old age and to be full of years, and now drawing near to the great change that I must look for when this corruptible body must put on incorruption, and this mortal shall put on immortality; so now to the end that I may have nothing to do but to await this change which I believe I may henceforward await for with joy and longing, make this my last will and testament as followeth—First, I do commend my immortal soul to the blessed Trinity, trusting to be saved by the merits of my dear Saviour, who according to his blessed name came into the world to save sinners, whereof I acknowledge myself to be the chief, and I give my body to be buried at Castle Martin in the county of Kildare without any solemnity, and being thus interred it is my desire and I do so will and declare that such debts as I shall owe at the time of my death, if it be that my personal estate shall fall short thereof, be in the first place for so much as my personal estate shall fall short, satisfied out of my lands, and I do hereby according to such power as I have, limit and appoint the legacies following to be paid, if my personal estate do not reach thereto out of the profits of my leased lands and lands of inheritance. To my dearly beloved wife the Lady Charity Eustace the one-half of my personal estate and goods remaining after my debts. To my sister Elizabeth Watson £100" [he then bequeathed several other pecuniary legacies]: "To the poor of the parish of St. Werburgh, Dublin £10, to the poor of the parish of Carnallway in the county Kildare £5. All my law books and written manuscripts I leave as an heir-loom to my heirs exclusively who shall study the law, which study I commend my heirs as being the most necessary and useful study for any one who intends to serve his king and country, and which presupposeth a knowledge of all other learning." [He then devised his estates in the counties of Dublin, Kildare and Wicklow, together with Cong ABBEY and its appurtenances in the county of Mayo, to his eldest son]. "It is likewise my will that my household stuff such as" "shall go to my dear wife: my house in Dame-street, my coach horses to Doctor Leach, Provost of the College of the Holy and Undivided Trinity, near Dublin. I do appoint my noble friend Arthur Earl of Anglesea and my nephew, John Keating, Esq., my executors; I do give £50 a piece to them to buy mourning for my sake. And now unto the King immortal, eternal, invisible and only one God, be honour and glory for ever and ever. Amen. And now Lord Jesus receive the soul of thy poor servant unto the everlasting dwellings which thou hast prepared for those who love thee. In attestation for this my last will and testament I do herunto put my hand and seal this 12th day of July, 1663, in the presence of, &c.,

"MAURICE EUSTACE, *Lord Chancellor.*"

NOTE, PAGES 178, 193, 213.

LORD CLARE—GEORGE PONSONBY—LORD PLUNKET.

In our memoirs of Lord Clare, George Ponsonby, and Lord Plunket, we made but a passing allusion to the parts played by those great men in the last struggle concerning the Union. These parts were so closely interwoven, that it was impossible to separate them, and to give Lord Clare's speeches and his acts in reference to the Union in his memoir; and at the same time leave the speeches and the acts of Mr. Ponsonby and Lord Plunket to be told separately in theirs, would present the appearance of a thrice-told and disjointed tale. We have reserved therefore for this place such portion of their biographies as are conversant with this subject. If Lord Clare came down like a wolf on the fold, he was met by those watchers of the night, Ponsonby and Plunket, and others of that gallant band of incorruptible men, such, for example, as Henry Grattan and John Philpot Curran, with whom indeed our narrative has not to deal, but whose genius and whose patriotism have given them immortality. That the Union was effected by bribery is not and can not be denied. But which in the scale of vice was the worst? The Englishman who bought the liberties of a venal race, or the Irishman who sold them? Let casuists answer.

The fury of the rebellion of 1798 had not yet subsided when the British minister recommended preparatory steps to be taken to enable the Irish government to introduce the proposal of a legislative Union. An anonymous pamphlet was written advocating the measure, and it was soon discovered that the author was Mr. Edward Cooke, the Under-Secretary. The leaders on both sides now stood forth, and Lord Clare was at the head of the supporters of the Union. Some men lost their places for their hostility to the measure, and amongst the first dismissals were those of Sir John Parnell, Chancellor of the Exchequer, and Mr. Fitzgerald, the Prime Serjeant. A meeting of the Bar was immediately convoked to consider the question, and there appeared against the Union 166, and for it 32—majority 134. "Thirty-two," continues Sir Jonah Barrington, "was the precise number of the county judges"; and he then gives the names of those "who were afterwards rewarded for their adherence to Lord Clare."

The Bar meeting was followed by a meeting of the merchants of the city of Dublin, who declared that they looked with abhorrence on any attempt to deprive the people of their parliament. Similar demonstrations were made in various quarters.

On the 22nd of January, 1799, Lord Cornwallis, then Lord Lieutenant, came down, with Lords Clare and Castlereagh, to open the session of parliament. They were accompanied by a strong guard, and His Excellency duly delivered his speech from the throne, of which those two ill-omened paragraphs were listened to with breathless attention:—

"The zeal of His Majesty's regular and militia forces, the gallantry of the yeomanry, the honourable co-operation of the British fencibles and militia, and the activity, skill, and valour of His Majesty's fleets, will, I doubt not, defeat every future effort of the enemy. But the

more I have reflected on the situation and circumstances of this kingdom, considering on one hand the strength and stability of Great Britain, and on the other those divisions which have shaken Ireland to its foundations, the more anxious I am for some permanent adjustment which may extend the advantages enjoyed by our sister kingdom to every part of this island.

"The unremitting industry with which our enemies persevere in their avowed design of endeavouring to effect a separation of this kingdom from Great Britain must have engaged your particular attention, and His Majesty commands me to express his anxious hope that this consideration, joined to the sentiment of mutual affection and common interest, may dispose the parliaments in both kingdoms to provide the most effectual means of maintaining and improving a connexion essential to their common security, and of consolidating as far as possible into *one firm and lasting fabric* the strength, the power, and the resources of the British empire."

This was the first acknowledged official intimation of the desire of the government to carry the Union, Lord Clare standing on the right-hand side of the throne during the delivery of that speech, which, it is not unlikely, he himself had written. In both the Lords and Commons the debates on the address were animated. In the Commons Mr. George Ponsonby moved as an amendment, that after the passage declaring the willingness of the House to enter on a consideration of what measures might best tend to the "consolidating as far as possible into one firm and lasting fabric the strength, the power, and the resources of the British empire," should be inserted these words: "maintaining, however, the undoubted birthright of the people of Ireland to have a resident and independent legislature such as was recognised by the British legislature in 1782, and was finally settled at the adjustment of all differences between the two countries."

Mr. Ponsonby, in moving this amendment, said that "neither the legislature nor any power on earth had a right or authority to annihilate the Irish Parliament, and deprive the people for ever of their rights to the benefits of the constitution and of civil liberty.

"The minister," he added, "had told them that they ought to discuss the measure with coolness; but the minister himself would not leave men to the free exercise of their understanding, but turned out of office [in allusion to the Prime Serjeant] the best and oldest servants of the Crown, because they would not prostitute their conscience. When the terror of dismissal was thus holden out to deter men in office from a fair exercise of their private judgment, how could he talk of a free discussion?"

In the debate that followed many warmly supported Mr. Ponsonby's amendment, while Lord Castlereagh, the leader of the Unionists in the House of Commons, called on the country torn with dissension to fling itself into the arms of England. William Cunningham Plunket, immediately on Lord Castlereagh's resuming his seat, rose and spoke that memorable speech, known as the famous Hamilear speech, of which the following is an extract:—

"Sir, I, in the most express terms, deny the competency of parliament to do this act. I warn you, do not dare to lay your hands on

the constitution. I tell you, that if, circumstanced as you are, you pass this Act, it will be a nullity, and that no man in Ireland will be bound to obey it. I make the assertion deliberately—I repeat it, and I call on any man who hears me to take down my words. You have not been elected for this purpose. You are appointed to make laws, and not legislatures. You are appointed to act under the constitution, not to alter it. You are appointed to exercise the functions of legislators, and not to transfer them. And if you do so your act is a dissolution of the government. You resolve society into its original elements, and no man in the land is bound to obey you.

“Sir, I state doctrines which are not merely founded in the immutable laws of justice and of truth. I state not merely the opinions of the ablest men who have written on the science of government, but I state the practice of our constitution as settled at the era of the revolution, and I state the doctrine under which the house of Hanover derives its title to the throne. Has the king a right to transfer his crown? Is he competent to annex it to the crown of Spain or any other country? No—but he may abdicate it, and every man who knows the constitution knows the consequence—the right reverts to the next in succession: if they all abdicate, it reverts to the people. The man who questions this doctrine, in the same breath must arraign the sovereign on the throne as an usurper. Are you competent to transfer your legislative rights to the French council of five hundred? Are you competent to transfer them to the British Parliament? I answer, no. When you transfer you abdicate, and the great original trust reverts to the people from whom it issued. Yourselves you may extinguish, but parliament you cannot extinguish. It is enthroned in the hearts of the people. It is enshrined in the sanctuary of the constitution. It is immortal as the island which it protects. As well might the frantic suicide hope that the act which destroys his miserable body should extinguish his eternal soul. Again I therefore warn you, do not dare to lay your hands on the constitution; it is above your power.

“Sir, I do not say that the parliament and the people, by mutual consent and co-operation, may not change the form of the constitution. Whenever such a case arises it must be decided on its own merits—but that is not this case. If government considers this a season peculiarly fitted for experiments on the constitution, they may call on the people. I ask you are you ready to do so? Are you ready to abide the event of such an appeal? What is it you must, in that event, submit to the people? Not this particular project; for if you dissolve the present form of government, they become free to choose any other—you fling them to the fury of the tempest; you must call on them to unhouse themselves of the established constitution, and to fashion to themselves another. I ask again, is this the time for an experiment of that nature? Thank God, the people have manifested no such wish—so far as they have spoken, their voice is decidedly against this daring innovation. You know that no voice has been uttered in its favour, and you cannot be infatuated enough to take confidence from the silence which prevails in some parts of the kingdom: if you know how to appreciate that silence, it is more formida-

ble than the most clamorous opposition—you may be rived and shivered by the lightning before you hear the peal of the thunder.

“But, sir, we are told that we should discuss this question with calmness and composure. I am called on to surrender my birth-right and my honour, and I am told I should be calm and should be composed. National pride! Independence of our country! These, we are told by the minister, are only vulgar topics fitted for the meridian of the mob, but unworthy to be mentioned to such an enlightened assembly as this; they are trinkets and gewgaws fit to catch the fancy of childish and unthinking people like you, sir, or like your predecessor in that chair, but utterly unworthy the consideration of this house, or of the matured understanding of the noble lord who condescends to instruct it! Gracious God! We see a Perry reascending from the tomb, and raising his awful voice to warn us against the surrender of our freedom, and we see that the proud and virtuous feelings which warmed the breast of that aged and venerable man are only calculated to excite the contempt of this young philosopher, who has been transplanted from the nursery to the cabinet to outrage the feelings and understanding of the country.

“But, sir, I will be schooled, and I will endeavour to argue this question as calmly and frigidly as I am desired to do; and since we are told that this is a measure intended for our benefit, and that it is through mere kindness to us that all these extraordinary means have been resorted to, I will beg to ask, how are we to be benefited? Is it commercial benefit that we are to obtain? I will not detain the house with a minute detail on this part of the subject. It has been fully discussed by able men, and it is well known that we are already possessed of everything material which could be desired in that respect. But I shall submit some obvious considerations.

“I waive the consideration, that under any union of legislatures the conditions as to trade between the two countries must be, either free ports, which would be ruinous to Ireland; or equal duties, which would be ruinous to Ireland; or the present duties made perpetual, which would be ruinous to Ireland; or that the duties must be left open to regulation from time to time by the united parliament, which would leave us at the mercy of Great Britain. I will waive the consideration, that the minister has not thought fit to tell us what we are to get, and, what is still stronger, that no man amongst us has any definite idea of what we are to ask; and I will content myself with asking this question—is your commerce in such a declining, desperate state, that you are obliged to resort to irrevocable measures in order to restore it? Or is it at the very moment when it is advancing with rapid prosperity, beyond all example and above all hope—is it, I say, at such a time that you think it wise to bring your constitution to market, and offer it to sale, in order to obtain advantages, the aid of which you do not require, and of the nature of which you have not any definite idea?

“A word more, and I have done as to commerce. Supposing great advantages were to be obtained, and that they were specified and stipulated for, what is your security that the stipulation will be observed? Is it the faith of treaties? What treaty more solemn

than the final constitutional treaty between the two kingdoms in 1782, which you are now called on to violate? Is it not a mockery to say that the parliament of Ireland is competent to annul itself, and to destroy the original compact with the people and the final compact of 1782, and that the parliament of the empire will not be competent to annul any commercial regulation of the articles of Union? And here, sir, I take leave of this part of the question. Indeed, it is only justice to government to acknowledge that they do not much rely on the commercial benefits to be obtained by the Union—they have been rather held out in the way of innocent artifice, to delude the people for their own good; but the real objects are different, though still merely for the advantage of Ireland.

“What are those other objects? To prevent the recurrence of rebellion, and to put an end to domestic dissensions? Give me leave to ask, sir, how was the rebellion excited? I will not inquire into its remote causes; I do not wish to revive unpleasant recollections, or to say anything which might be considered as invidious to the government of the country; but how was it immediately excited? By the agency of a party of levellers actuated by French principles, instigated by French intrigues, and supported by the promise of French co-operation. This party, I hesitate not to say, was in itself contemptible. How did it become formidable? By operating on the wealthy, well-informed, and moral inhabitants of the north, and persuading them that they had no constitution; and by instilling palatable poisons into the minds of the rabble of the south; which were prepared to receive them by being in a state of utter ignorance and wretchedness. How will an Union effect those pre-disponent causes? Will you conciliate the mind of the northern by caricaturing all the defects of the constitution, and then extinguishing it, by draining his wealth to supply the contributions levied by an imperial parliament, and by outraging all his religious and moral feelings by the means which you use to accomplish this abominable project? and will you not, by encouraging the drain of absentees, and taking away the influence and example of resident gentlemen, do everything in your power to aggravate the poverty, and to sublimate the ignorance and bigotry of the south?

“Let me ask again, how was the rebellion put down? By the zeal and loyalty of the gentlemen of Ireland rallying round—what? a reed shaken by the winds—a wretched apology for a minister, who neither knew how to give nor where to seek protection? No! but round the laws and constitution and independence of the country. What were the affections and motives that called us into action? To protect our families, our properties, and our liberties. What were the antipathies by which we were excited? Our abhorrence of French principles and French ambition. What was it to us that France was a republic? I rather rejoiced when I saw the ancient despotism of France put down. What was it to us that she dethroned her monarch? I admired the virtues and wept for the sufferings of the man; but as a nation it affected us not. The reason I took up arms, and am ready still to bear them against France, is because she intruded herself upon our domestic concerns—because with the rights of man and the love of freedom on her tongue, I see that she has the lust of dominion in her heart—because wherever she has placed her foot, she

has erected her throne; and to be her friend or her ally is to be her tributary or her slave.

“ Let me ask, is the present conduct of the British minister calculated to augment or to transfer that antipathy? No, sir, I will be bold to say, that licentious and impious France, in all the unrestrained excesses which Anarchy and Atheism have given birth to, has not committed a more insidious act against her enemy than is now attempted by the professed champion of civilized Europe against a friend and an ally in the hour of her calamity and distress—at a moment when our country is filled with British troops—when the loyal men of Ireland are fatigued with their exertions to put down rebellion; efforts in which they had succeeded before these troops arrived—whilst our Habeas Corpus Act is suspended—whilst trials by court martial are carrying on in many parts of the kingdom—whilst the people are taught to think that they have no right to meet or to deliberate, and whilst the great body of them are so palsied by their fears, and worn down by their exertions, that even this vital question is scarcely able to rouse them from their lethargy—at the moment when we are distracted by domestic dissensions—dissensions artfully kept alive as the pretext for our present subjugation, and the instrument of our future thralldom!

“ Yet, sir, I thank the administration for this measure. They are, without intending it, putting an end to our dissensions—through this black cloud which they have collected over us I see the light breaking in upon this unfortunate country. They have composed our dissensions—not by fomenting the embers of a lingering and subdued rebellion—not by hallooing the Protestant against the Catholic and the Catholic against the Protestant—not by committing the north against the south—not by inconsistent appeals to local or to party prejudices; no—but by the avowal of this atrocious conspiracy against the liberties of Ireland, they have subdued every petty and subordinate distinction. They have united every rank and description of men by the pressure of this grand and momentous subject; and I tell them that they will see every honest and independent man in Ireland rally round her constitution, and merge every other consideration in his opposition to this ungenerous and odious measure. For my own part, I will resist it to the last gasp of my existence, and with the last drop of my blood, and when I feel the hour of my dissolution approaching, I will, like the father of Hannibal, take my children to the altar and swear them to eternal hostility against the invaders of their country’s freedom.

“ Sir, I shall not detain you by pursuing this question through the topics which it so abundantly offers. I shall be proud to think my name may be handed down to posterity in the same roll with these disinterested patriots who have successfully resisted the enemies of their country. Successfully I trust it will be—in all events I have my great reward; I shall bear in my heart the consciousness of having done my duty, and in the hour of death I shall not be haunted by the reflection of having basely sold or meanly abandoned the liberties of my native land. Can every man who gives his vote on the other side lay his hand upon his heart and make the same declaration?”

For twenty-two hours the debate lasted, and at 10 o’clock on the

24th of January, 1799 the House divided, and the vote stood—for Mr. Ponsonby's amendment, 105; against it, 106. Majority for the Government, 1 (which was substantially a defeat).

On the very next day the struggle was renewed, when Lord Castlereagh stigmatised the Bar of which Mr. Ponsonby, who had just spoken was so distinguished a member as "petty-foggers." After many had spoken on both sides, Mr. Plunket rose and delivered one of the ablest speeches ever delivered in Parliament. He could go no farther than Mr. Ponsonby had done, but his language, according to Sir Jonah Barrington, was irresistible. On this occasion there was a majority of six against the Union.

This was a triumph for the popular party, but in the moment of triumph disaster was looming in the distance. Elated with success, Mr. Ponsonby requested his supporters, who rose to leave the House, to remain for a few moments, as he was bringing on a motion of the utmost importance. Silence being restored, he "congratulated the House and the country on the honest and patriotic assertion of their liberties, but declared that he considered there would be no security against future attempts to overthrow their independence, save by a direct and absolute declaration of the rights of Irishmen, recorded upon their Journals as the decided sense of the people through their Parliament, and he, therefore, would without further preface move:—*"That this House will ever maintain the undoubted birth-right of Irishmen, by preserving an independent Parliament of Lords and Commons residing in this Kingdom, as stated and approved by His Majesty and the British Parliament in 1782."*

Lord Castlereagh "conceived this motion of Mr. Ponsonby of a most dangerous tendency; however if the House were determined upon it, he begged to declare his entire dissent, and on their own heads be the consequences of so wrong and inconsiderate a measure." No further opposition was made by the Government, and the motion was carried, by acclamation; but, the Speaker having called upon Mr. Ponsonby to write down his motion accurately, while he was in the act of doing so, some of the Members who had voted with him hesitated. Whether from the weakness that belongs to some minds, or because they did not wish the Government to be finally beaten, they stated that they did not desire to bind themselves for ever, as circumstances might occur which would render the measure expedient for the Empire. The motion was not pressed by Mr. Ponsonby, who "lamented that the smallest contrariety of opinion should have arisen amongst men who ought to be united by the most powerful of all inducements—the salvation of their independence. He perceived, however, a wish that he should not press it, founded, he supposed, on a mistaken confidence in the engagements of the noble lord (Lord Castlereagh), that he would not again bring forward this ruinous measure without the decided approbation of the people and of the Parliament. Though he must doubt the sincerity of the minister's engagements, yet he could not hesitate to acquiesce in the wishes of his friends, and he would, therefore, withdraw his motion"—a withdrawal which was sarcastically said, by Sir Henry Cavendish, to be a retreat after a victory.

The House of Lords met on the 22nd of January, 1799, the same

day as the Commons, to receive the speech of the Viceroy ; but there the voice of Lord Clare was omnipotent. " In his hands (writes Sir Jonah Barrington) that House was powerless ; there were, however, amongst the Irish nobility, a few men of spirit, pride, talent, and integrity ; but there were too few for resistance.

" The education of the Irish noblemen of that day was little calculated for debate or parliamentary duties ; they very seldom took any active part in parliamentary discussions, and more rarely attained to that confidence in public speaking, without which no effect can be produced. They could argue, or might declaim, but were unequal to what is termed debate ; and being confirmed in their torpidity by an habitual abstinence from parliamentary discussions, when the day of danger came, they were unequal to the contest.

" Lord Clare, on the contrary, from his forensic habits, his dogmatic arrogance, and unrestrained invective, had an incalculable advantage over less practised reasoners. The modest were overwhelmed by flights of astounding rhapsody, the patriotic borne down by calumny, the diffident silenced by contemptuous irony ; and nearly the whole of the peerage, without being able to account for their pusillanimity, were either trampled under his feet, or were mere puppets in the grasp of this all-powerful Chancellor. Such was the state of the Irish Lords in 1799. The extent of Lord Clare's connexions, and the energy of his conduct during the last insurrection, had contributed to render him nearly despotic over both Government and the country. Dickson, Bishop of Down, and Marlay, Bishop of Limerick, were the only spiritual peers that ventured to oppose him ; both were of invincible integrity and undeviating patriotism. His Lordship of Limerick was the uncle of Mr. Grattan ; and the Bishop of Down was the intimate friend of Mr. Fox. Unfortunately, both were too mild, unassuming, and dignified, to contend successfully against so haughty and remorseless an opponent."

It was also, on the same day on which the Union was indirectly proposed by Lord Cornwallis in Ireland, that a similar proposal was made to the British Parliament by Lord Grenville ; but there the matter remained during the rest of the year 1799. In Ireland, meanwhile, Catholic Emancipation was promised as the result of the Union ; shameless bribery was resorted to, and Catholic barristers being themselves ineligible for promotion, were silenced by pensions, bestowed in many instances upon themselves for life, with remainder to their wives and children.

The trading and commercial classes of Catholics in the city of Dublin were opposed to the Union ; and, immediately before the opening of the Session, a meeting of those people was held at the Royal Exchange, to deliver their opinion upon it. It was proposed to prevent their assembling by military force—such was Lord Clare's first thought ; but the meeting was held, and no less a person than Daniel O'Connell, then rapidly rising at the Bar, took an active part in its proceedings. We shall give an extract from his speech, although in doing so we are travelling out of the line we had traced, which was to confine ourselves to the course adopted by Lord Clare, George Ponsonby, and William Conyngham Plunket. Mr. O'Connell said that " it was asserted by the advocates of Union—

darlingly and insolently asserted—that the Roman Catholics of Ireland were friends to the measure of Union, and silent allies to that conspiracy formed against the name, the interests, and the liberties of Ireland. This libel on the Catholic character was strengthened by the partial declarations of some mean and degenerate members of the communion, wrought upon by corruption or by fear, and, unfortunately, it was received with a too general credulity. Every Union pamphlet, every Union speech imprudently put forth the Catholic name as sanctioning a measure which would annihilate the name of the country, and there was none to refute the calumny. In the speeches and pamphlets of anti-Unionists, it was rather admitted than denied, and, at length, the Catholics themselves were obliged to break through a resolution which they had formed, in order to guard against misrepresentation, for the purpose of repelling this worst of misrepresentations. To refute a calumny directed against them, as a sect, they were obliged to come forward as a sect, and in the face of their country to disavow the base conduct imputed to them, and to declare that the assertion of their being favourably inclined to a measure of a legislative incorporation with Great Britain was a slander the most vile—a libel the most false, scandalous, and wicked, that ever was directed against the character of an individual or a people.

“Sir,” continued Mr. O’Connell, “it is my sentiment, and I am satisfied it is the sentiment, not only of every gentleman who now hears me, but of the Catholic people of Ireland, that if our opposition to this injurious, insulting, and hated measure of Union were to draw upon us the revival of the Penal Laws, we would boldly meet a proscription and oppression, which would be the testimonies of our virtue, and sooner throw ourselves once more on the mercy of our Protestant brethren, than give our assent to the political murder of our country; yes, I know—I do know, that although exclusive advantages *may be ambiguously held forth to the Irish Catholic*, to seduce him from the sacred duty which he owes his country; I know that the Catholics of Ireland still remember that they have a country, and that they will never accept of any advantages as a *sect*, which would debase and destroy them as a *people*.”

Mr. O’Connell then moved the following resolution, which was unanimously agreed to:—

“Resolved—That we are of opinion that the proposed incorporate Union of the Legislatures of Great Britain and Ireland is, in fact, an extinction of the liberty of this country, which would be reduced to the abject condition of a province, surrendered to the mercy of the Minister and Legislature of another country, to be bound by their absolute will, and taxed at their pleasure by laws, in the making of which this country could have no efficient participation whatever.”

On the 15th of January, 1800, the last Session of the Irish Parliament met in College-green. It was expected that the speech from the throne would have again brought before the minds of men the all-absorbing topic of the Union. The Viceroy congratulated them on the victories of the combined British armies over France, and recommended to their especial care the Protestant Charter Schools, but

ended without saying one word of the one subject that was uppermost in the minds of all!

The address was moved in the House of Commons; and Sir Lawrence Parsons moved an amendment, declaratory of Mr. Ponsonby's resolution that Parliament would preserve the Constitution as established in 1872, and would support the freedom and independence of the nation. This motion created a warm debate on the first evening of the Session. Mr. Plunket spoke that night in impassioned language against the Union, and Mr. Ponsonby delivered one of his most brilliant speeches, and then left the House; but soon returned, leading, or rather helping Mr. Grattan to enter, in a state of total feebleness and debility. Long illness had reduced him to the appearance of a spectre, and he now resumed his place in the House from which he had, more than two years previously, seceded. He joined in the debate that night, but neither his eloquence, nor that of Ponsonby nor of Plunket, prevailed—*Quid non mortalia pectora cogis, auri sacra fames?* Ninety-six only voted for Sir Lawrence Parsons' amendment, while one hundred and thirty-eight voted against it—a majority of forty-two for the Castle!

At length, on the 15th of February, 1800, Lord Castlereagh formally brought the project before the House by reading a message from Lord Cornwallis, recommending that measure to the earnest attention of Parliament.

Mr. Ponsonby, in reply, made a violent attack upon the Minister, and his whole scheme. He treated as visionary all the proffered advantages of the Union: "In the ecclesiastical establishment it would produce but one solid effect—namely, to translate Irish into English bishops; while," he said, "your Peerage is to be disgraced—your Commons purchased, and no additional advantage to be given to commerce; for twenty years a little savings in contributions; but if the Cabinet of England think that we contribute more than we should, why not correct that extravagance now? If anything be conceded in the way of trade, why is it not conceded now? Are any of these benefits incompatible with our present state? No! but the Minister wants to carry his Union, and no favour, however trifling, can be yielded to us unless we are willing to purchase it with the existence of Parliament, and the liberties of our country."

On a division there appeared for printing the Articles of Union one hundred and fifty-eight; against it one hundred and fifteen—majority forty-three.

At once Lord Castlereagh sent up the Articles to the House of Lords. Lord Clare's speech on that occasion was one of the most remarkable delivered in either House in the debates preceding the Union. His lordship having expressed his conviction that nothing but "union" could save the country from annihilation, thus proceeded, giving, as he went along, a historical disquisition on the whole career of the English colony in Ireland:—

"My opinion on this subject has not been recently or lightly formed. Early professional habits had taught me to investigate the foundation of Irish titles, and of necessity to look back into Irish history. It had been my fortune," he says, "to be called into active and forward public service, perhaps during the most eventful period

of it; and from a critical and attentive observation of what has passed in Ireland for the last twenty years, I am satisfied, in my judgment and conscience, that the existence of her independent parliament has led her to recent complications and, bitter calamities, and that it has at length become desperate and impracticable. I did more than once, when I sat in the House of Commons, state without reserve, that the rapid growth of faction and the precipitate folly and passions of men who, from time to time, were suffered to take a commanding lead in the councils of that assembly, would inevitably reduce us to the alternative of separation or union. I have, with as little reserve, stated the same opinion since I have had the honour of a seat in this house; and I make no scruple to avow, that in every communication I have had with the King's ministers on Irish affairs for the last seven years, I have uniformly and distinctly pressed upon them the urgent necessity of union, as the last resource to preserve this country to the British Crown. I pressed it without effect until British ministers and the British nation were roused to a sense of the common danger, by the late sanguinary and *unprovoked* rebellion.

"It seems perfectly immaterial now to inquire what was the origin of that connexion which has subsisted for more than six centuries between this country and England—whether it originated in conquest, as English lawyers and historians have confidently advanced, or as we assert, with equal confidence, in a federal compact of some old Irish chiefs with the English king. If the conquest of Ireland was the object of the English king, his embarrassments on the Continent seem to have disabled him from effecting it.

"The first English settlements here have been merely colonial, such as have been since made by the different nations of Europe, on the coasts of Asia, Africa, or America. During several successive reigns, the English colony was left to thrive by its own strength and resources, having received no other reinforcement than the occasional arrival of new British adventurers: the consequence was, that for centuries the English Pale was not pushed beyond its original limits. So late as the reign of Henry VIII., it consisted of four shires only, and Mr. Allen, then Master of the Rolls, reported to the King, that his laws were not obeyed twenty miles from the capital. The common observation of the country was, that they who dwelt west of the river Barrow dwelt west of the law.

"The early policy of the English Government certainly was, to discourage all connexion of the colony with the native Irish; the Statute of Kilkenny, enacted by the provincial assembly of the Pale in the reign of Edward III., having prohibited marriage, or gossiped with the Irishry, or claiming the benefit of the Brehon Law by any person of English blood, under the penalties of treason. This statute has been much extolled by Sir John Davis, as eminently qualified to reform the degenerate English, as he calls them. It seems difficult, however, to reconcile it to any principle of sound policy; it was a declaration of perpetual war, not only against the native Irish, but against every person of English blood who had settled beyond the limits of the Pale, and from motives of personal interest and convenience, had formed connexions with the natives, or adopted their laws and customs; and it had full effect, which might have been expected:

it drew closer the confederacy it was meant to dissolve, and implicated the colonies of the Pale in ceaseless warfare and contention with each other, and with the inhabitants of the adjacent districts.

“Such was the state of Ireland when the attempt was first made to promulgate the English statute law here; and it is not extraordinary that in the complicated quarrels and promiscuous warfare which had subsisted for centuries between the native Irish and degenerate English, and English of blood and English of birth within the Pale, that the attempt proved altogether abortive. The taunting answer of Maguire, chief of Fermanagh, to the Lord Deputy, who applied to him to receive a sheriff commissioned by Henry VIII., sufficiently explains the state of the country, and the authority of the King’s Government in it: ‘Your sheriff shall be welcome to me; but if he comes, send me his eric (the price of his head), that if my people slay him, I may fine them accordingly.’

“In the same reign a formal treaty was made with the Earl of Desmond, for his permission that the English law should be executed, and the subsidies granted by the parliament of the Pale be levied in his country; and other chiefs treated ‘for the admission of the King’s judges, on condition only that they should observe the Irish law; and perhaps if these judges, or any other officers commissioned by the Crown, had been authorised to act as arbitrators, to compose the feuds and animosities of the Irish tribes, with the powerful Lords of English blood, the habitual and licentious turbulence of the Irish nation might gradually have subsided, and acquiesced in the establishment of a rational and civilised government; but fatally at this time a new schism rose, *which has been the bane and pestilence of Ireland*. It has rendered her a blank amongst the nations of Europe, and will, I fear, long continue to retard her progress in the civilised world.

“In the reign of Henry VIII. no attempt was made to force the reformed liturgy upon them; he was satisfied with a silent acquiescence in his claim of supremacy; but on his death this system of moderation was deserted: orders were issued by the Regency, for enforcing the use of the English liturgy, and stripping the churches of their old ornaments in every district in which the English power was acknowledged.

“In the succeeding reign the tables were reversed:—the Protestant churches were shut; the popish liturgy and old ensigns of superstition were restored.

“In the reign of Elizabeth, a new reverse took place: the popish churches were again stripped of their ornaments; the reformed liturgy was again enforced, and the English Act of Uniformity was enacted by the colonial parliament; and what seems to be a solecism in the history of legislation, in the body of this Act, by which the use of the English liturgy, and a strict conformity to it, are enjoined under severe penalties, a clause is introduced, reciting, ‘that English ministers cannot be found to serve in Irish churches; that the Irish people did not understand the English language; that the Church service cannot be celebrated in Irish, as well for difficulty to get it printed, as that few in the whole realm can read’;—and what is the remedy? “if the Minister of the Gospel cannot speak English, he may celebrate the Church service in the Latin tongue.”

The Chancellor next proceeds to condemn the persecutions of the Irish Catholics :—

“ It seems difficult to conceive any more unjust or impolitic act of government than an attempt thus to force new modes of religious faith and worship, by severe penalties, upon a rude, superstitious, and unlettered people. Persecution or attempts to force the reformed religion in Ireland had no other effect than to foment a *general disaffection* to the English Government—a disaffection so general as to induce Philip II. of Spain to attempt partial descents on the southern coasts of this island, preparatory to his meditated attack upon England. Elizabeth quickly saw her danger, and that it was necessary, without delay, to secure the possession of Ireland; she sent over a powerful and well-appointed army, and after a difficult and bloody war of seven years, effected the complete reduction of the island, which, to the period of this first conquest, had been divided into a number of licentious and independent tribes, under the rule of the ancient chiefs of the country, and powerful lords of English blood, who had obtained profuse ‘territorial grants from the Crown.’ She did not, however, live to see this reduction completed. The capitulation with O’Neale was not signed till some time after her death; and therefore her successor must be considered as the first English monarch who possessed the complete dominion of Ireland.

“ The accession of James the First I consider as the era of connexion between the sister islands. Then, for the first time, was the spirit of resistance to the English power broken down, and the English laws universally acknowledged. The first object of the King seems to have been, to establish the Reformation; but, in pursuing it, unfortunately he adopted the same course by which his predecessors had been misled; but his measures were attended with much more serious and extensive consequences; their orders for religious reformation had extended only to the churches and districts within the Pale; but the orders sent by the council of James I. extended to the whole island.”

Of the Confiscation of Ulster in the reign of James I. he thus speaks :—

“ The province of Ulster had been the principal theatre of the late civil war, and had been confiscated and seized into the hands of the Crown. The old proprietors, who had led the revolt, were expelled, and replaced by a new set of adventurers from England and Scotland—all Protestants, who, with a new religion, brought over with them a new source of contention with the inhabitants.

“ One of the modern arts of civil war in Ireland has been to stigmatise the memory of James I. as having sapped the liberties, and subverted the parliamentary constitution, of Ireland; and this revolutionary text, from the moment it was given out, has been enlarged upon with equal assiduity and success by every avowed rebel and equivocal loyalist in the kingdom. But what is the fact which stands recorded and authenticated beyond doubt or controversy? That Ireland, before the accession of James I., had never anything like a

parliamentary constitution. In the reign of Edward II., the descendants of the first English settlers had a provincial assembly which was called the Parliament of the Pale. The same sort of assembly was occasionally summoned during several successive reigns; and any man who will take the trouble to read the Statute-book will find that the principal business of them all was to pass ordinances of outlawry against the native Irish, and inhabitants of English blood connected with them. But such was the contempt in which these assemblies was held, that even the colonists of the Pale considered it an insult to be summoned to attend them. The Earl of Desmond claimed it as the right and privilege of the lords of English blood not to attend these assemblies, or to come into any walled town, but at their will and pleasure.

- “In the province of Connaught there is not the trace of any claim, or exercise of any parliamentary franchise till late in the reign of Elizabeth: in Ulster, none till the reign of James I. Some few of the seaports in Munster had been occasionally summoned to send deputies to the colonial parliament; but such was the state of the country that they could not make their way to the Pale, insomuch that in the thirty-third year of the reign of Henry VIII. it was found necessary to repeal an ordinance by which the place of meeting of the colonial parliament was restricted to Dublin or Drogheda. The cause assigned in the Act of repeal is, that by reason of the distance of obedient shires and borough towns, and the perilous passage by the way from the King’s rebels, these deputies could not attend.

“The crime for which the memory of James I. has been calumniated is, that he laid the foundation of a regular government in Ireland, and of the existing establishments in Church and State. At his accession there were scarcely any Protestants amongst the old inhabitants of English blood—amongst the native Irish none: for the last twenty years, therefore, of Elizabeth, she could not venture to call the colonial parliament. The distinction of English and Irish had been nearly effaced in her time, and was succeeded by a new schism of Protestant and Papist; but, from the first introduction of his Protestant colony by James I., the old distinctions of native Irish and degenerate English, and English of blood and English of birth, were lost and forgotten. All rallied to the banner of the Popish faith, and looked upon the new Protestant settlers as the common aggressor and enemy; and it is a melancholy truth, that from that day all have clung to the Popish religion as a common bond of union, and an hereditary pledge of animosity to British settlers and the British nation. What alternative, then, remained to the King for retaining this country under the dominion of his crown, in the modern revolutionary phrase? The physical consequence of the country was arrayed against the English colony and the English government; he was therefore driven to the necessity of treating the old inhabitants as a conquered people, and governing their country as an English province; or of fortifying his Protestant colony by investing them exclusively with the artificial power of a separate government, which, on every principle of self-interest and self-preservation, they were bound to administer in concert with England. The executive departments were under the immediate control of the ordinary royal prerogative; but it

was vain to hope that he could retain possession of Ireland under a separate government, unless a majority of the Irish Parliament stood well affected to the English Crown and English nation; and to obtain that majority he resorted to the exercise of a prerogative which has always belonged to the English Crown, by erecting new counties, and incorporating some of the principal towns occupied by the new settlers, giving them the franchise of sending representatives to the Irish Parliament; and I repeat, without incurring the hazard of contradiction, that Ireland never had an assembly which could be called a parliament until the reign of James I.

“The legislative assemblies before his accession were composed only of the few persons who could be prevailed upon to attend from obedient shires and towns within the Pale or immediately adjacent to it, and from a few scattered English settlements on the coast of Munster: and with all the exertions made in support of the Protestant colony, the majority in its favour at the first meeting was little more than twenty; and it would seem that the debates of that day partook pretty largely of modern virulence, for a scuffle took place in the House of Commons, which might have ended in bloodshed if the precaution had not been taken to disarm the combatants before they were suffered to meet in parliament.

“The steady government of Strafford kept down these animosities, which had continued with unabated rancour until his time; but, at his removal, the old inhabitants, taking advantage of the weakness and distraction of the English Government, broke out into open hostility and rebellion: the flame had long been smothered, and at length burst forth with a terrible explosion. The native Irish began the insurrection, but were soon joined by the old English colony, and the lords of English blood, with few exceptions. After a fierce and bloody contest of eleven years, in which the face of the whole island was desolated, and its population nearly extinguished by war, pestilence, and famine, the insurgents were subdued, and suffered all the calamities which could be inflicted on the vanquished party in a long-contested civil war. This was a civil war of extermination.

“The rebellion of 1798 would have been a war of extermination, if it had not been for the strong and merciful interposition of Great Britain; and I could wish that the besotted rebels of this day, who have been saved from extermination by a British monarch, would look back at the blessings of Republican liberty dealt out to their ancestors by the usurper Cromwell. His first act was to collect all the native Irish who had survived the general desolation and remained in the country, and to transplant them into the province of Connaught, which had been completely depopulated and laid waste in the progress of the rebellion. They were ordered to retire there by a certain day, and forbidden to repass the river Shannon on pain of death, and this sentence of deportation was rigidly enforced until the Restoration. Their ancient possessions were seized and given up to the conquerors as were the possessions of every man who had taken part in the rebellion, or followed the fortunes of the King, after the murder of Charles I.: and this whole fund was distributed amongst the officers and soldiers of Cromwell's army, in satisfaction of the arrears of their pay, and amongst the adventurers who had advanced money to defray

the expenses of the war. Thus a new colony of new settlers, composed of all the various sects which then infested England, many of them infected with the leaven of democracy, poured into Ireland, and were put into possession of the ancient inheritance of its inhabitants: and I speak with great personal respect of the men, when I state that a very considerable portion of the opulence and power of the kingdom of Ireland centres at this day in the descendants of this motley collection of English adventurers.

"It seems evident, from the whole tenor of the declaration made by Charles II. at his restoration, that a private stipulation had been made by Monck, in favour of Cromwell's soldiers and adventurers, who had been put into possession of the confiscated lands in Ireland; and it would have been an act of gross injustice on the part of the King to have overlooked their interests. The civil war of 1641 was a rebellion against the Crown of England; and the complete reduction of Irish rebels by Cromwell redounded essentially to the advantage of the British empire. But admitting the principle in its fullest extent, it was impossible to defend the Acts of Settlement and Explanation, as it was carried into effect; and I could wish that the English could understand them. The Act of Settlement professes to be a declaration of His Majesty's gracious declaration of his kingdom of Ireland, and satisfaction of the King's subjects, of adventurers, soldiers, and other his subjects that, during the rebellion, the enormities committed in the final reduction of the rebels by the King's English subjects, by a general sweeping clause, 'vests in the King, his heirs, and successors, all estates, real and personal, of every kind, in the kingdom of Ireland, which at any time from the year 1641, were seized or sequestered into the hands, of Charles I., or the then king, or otherwise disposed of, by reason, or on account of the rebellion, or which were granted, assigned, or distributed to any person or persons for arrears, reprisals, or otherwise, or whereof any soldier, adventurer, or other person were in possession for or on account of the rebellion.'

"Having thus, in the first instance, vested three-fourths of the lands and personal property of the inhabitants of this island in the King, Commissioners were appointed, with full and exclusive authority, to hear and determine all claims upon the general fund, whether of officers and soldiers for arrears of pay, of adventurers who had advanced money for carrying on the war, or of innocent papists, as they are called; in other words, of the old inhabitants of the island who had been dispossessed by Cromwell, not for having taken a part in the rebellion against the English Crown, but for their attachment to the fortunes of Charles II.; but with respect to this class of sufferers, who might naturally have expected a preference of claim, a clause is introduced, by which they are postponed after a decree of innocence by the Commissioners, until previous reprisal shall be made to Cromwell's soldiers and adventurers, who had obtained possession of their inheritance. I will not detain the House with a minute detail of the provisions of this Act, thus passed for the settlement of Ireland; but

I wish gentlemen, who call themselves the dignified and independent Irish nation, to know that seven millions eight hundred thousand acres of land were set out, under the authority of this Act, to a motley crew of English adventurers, civil and military, nearly to the total exclusion of the old inhabitants of the island; many of whom, who were innocent of the rebellion, lost their inheritance, as well for the difficulties imposed upon them by the Court of Claims in the proofs required of their innocence, as from a deficiency in the fund for reprisal to English adventurers, arising principally from a profuse grant made by the Crown to the Duke of York, and the Parliament of Ireland.

"Having made this settlement of the island, in effect, on themselves—granted an hereditary revenue to the Crown, as an indemnity for the forfeitures thus relinquished by Charles II., after the expulsion of James from the throne of England—the old inhabitants made a final effort for recovery of their ancient power, in which they were once more defeated by an English army; and the slender reliques of Irish possessions became the subject of fresh confiscation. From the report made by the Commissioners appointed by the Parliament of England in 1698, it appears that the Irish subjects outlawed for the rebellion of 1688 amounted to 3,978, and that their Irish possessions, so far as could be computed, were of the value annually of £211,620, comprising 1,060,700 acres. This fund was sold under the authority of an *English* Act of Parliament, to defray the expenses incurred by England in reducing the rebels of 1688, and the sale introduced into Ireland a new set of adventurers.

"It is a subject of curious and important speculation to look to the forfeiture of Ireland incurred in the last century. The superficial contents of the island are calculated at 11,742,682 acres (that is of arable land). Let us now examine the state of forfeitures:—

" Confiscated in the reign of James I. the whole of the province of Ulster, containing	2,836,837
" Set out by the Court of Claims at the Restoration,	7,800,000
" Forfeitures of 1688, acres,	1,060,792
Total,	11,697,629

So that the whole of your island has been confiscated, with the exception of the estates of five or six old families of English blood, some of whom had been attainted in the reign of Henry VIII., but recovered their possessions before Tyrone's rebellion, and had the good fortune to escape the pillage of the English republic inflicted by Cromwell; and no inconsiderable portion of the island has been confiscated twice, or perhaps thrice, in the course of a century.

"The situation, therefore, of the Irish nation at the revolution stands unparalleled in the history of the inhabited world. If the wars of England carried on here, from the reign of Elizabeth, had been waged against a foreign enemy, the inhabitants would have retained their possessions under the established law of civilized nations, and their country have been annexed as a province to the British empire; but the continued and persevering resistance of Ireland to the British

Crown during the whole of the last century was mere rebellion, and the municipal law of England attached upon the crime. What, then, was the situation of Ireland at the revolution, and what is it at this day? The whole power and property of the country has been conferred by successive monarchs of England upon an English colony, composed of three sets of English adventurers, who poured into this country at the termination of three successive rebellions.

“Confiscation is their common title; and from their first settlement they have been hemmed in on every side by the old inhabitants of the island, brooding over their discontents in sullen indignation. It is painful to me to go into this detail; but we have been for twenty years in a fever of intoxication, and must be stunned into sobriety. What, then, was the security of the English settlers for their physical existence at the revolution, and what is the security of their descendants at this day?”

His lordship having thus demonstrated to the House that their titles rested on confiscation, reminded them that the Catholic emancipation which would place the Catholics in the Irish senate and on the Irish bench would be a prelude to the restoration of the ancient proprietors in their ancient estates, from which they, the Protestants, would be most certainly in turn expelled. By the union of both legislatures a Protestant House would legislate for both countries, and the security of the Protestant Church and Protestant proprietors become undoubted.

The measure was carried through the House of Lords, seventy-five peers voting for and twenty-six against it.

On the 25th of May, 1800, Lord Castlereagh moved for leave to bring in his bill for the Legislative Union: that leave was given by a vote of 160 against 100.

The resolutions of the English Parliament suggesting articles of Union had some short time previously been laid before the Irish House of Commons. They had been warmly debated; and during that debate Mr. George Ponsonby raised the question of bribing members under the pretence of compensating for the loss of parliamentary influence. Mr. Plunket challenged Lord Castlereagh to declare whether he really meant to raise £1,500,000 for such a purpose—“Because if the noble lord had decency enough to abandon so infamous, so base a part of his plan, as that of employing the money of the people to buy up their representatives, he deserved credit for it, and he called upon him now to stand up in his place and avow his abandonment.”

Lord Castlereagh answered, that he had no notion whatever of abandoning any part of his plan, and he was only waiting until the articles of Union were adopted by both houses, to propose “the exact quantum and mode of compensation.” Plunket retorted:—

“Gentlemen on one side, it appears, are to have compensation for past services, and gentlemen borough proprietors on the other side are promised compensation in hope of future services. But neither are to have compensation unless the Union is carried.

“Here, then, is a poor country that has travelled, according to

the noble lord's account, so rapidly in the career of bankruptcy, that her finances are unequal to her war establishment, or her civil establishment—a nation almost engulfed in the jaws of beggary and ruin—yet this poor country is now told by the minister he must find a million and a-half of money, to be raffled for by the members of this house—but that every man who takes the dice-box in his hand, to throw for his share of the plunder, must first pledge himself to vote for the Union.

“What will the people of Ireland say to so base and flagitious a piece of plunder as this juggling from them, by taxes on their wants and miseries, the enormous sum of a million and a-half, to reward the betrayers of their rights and liberties?”

He did not speak again until the 26th of May, when the bill for settling the commercial relations of the two countries under the Union was in the stage of second reading. Grattan opened the debate with a masterly statistical statement, followed by passages of glowing appeal and exquisite imagery.

Lord Castlereagh “called in question the patriotism of those who took every opportunity of inflaming the public mind against a settlement, which was on the very eve of conclusion. Whatever might be their views, however strong their allusions to rebellion, government was energetic and able enough to defend the constitution against all future attacks, as it had against the past.”

Mr. May supported the Secretary. In his mind it was an excellent argument for Union that the Irish house might by admixture reform the English house. One of the articles of Union, however, provided that not more than twenty Irish members holding office should be eligible to sit in the united parliament; so that Mr. May and his friends were, as it were, innocently supporting a self-denying ordinance.

Mr. Plunket then rose and delivered his last speech on the Union, and his words are worthy of remembrance:—

“Mr. Speaker, I rise to reiterate my opposition to this measure—an opposition which I will never cease to make until the constitution is finally extinguished. I cannot subscribe to the new doctrine of the noble lord, that this bill must now be considered as passed, and that whoever ventures to oppose it in its second reading is guilty of insolent disrespect to the law of the land. I congratulate the noble lord on his recent discovery, that it is insolence in any man to set up his private opinion against the declared sense of parliament. If, when an unbought majority of parliament had reprobated a certain measure as a violation of the liberties and constitution of the land, a young man, with intemperate and ill-advised obstinacy, should declare himself determined to persevere in pressing that very measure, and that he would never lose sight of it—if such a man, slighting the sense of the legislature, abusing the power he possesses, and practising against the virtue and independence of parliament, should come back here in less than twelve months, and, with a miserable venal and packed majority at his back, propose and carry that very measure against the former unbought and avowed opinion of the parliament and the

people, such a man must indeed be insolent and audacious. So far is it from being treason to expose and resist an attempt of such a kind in every stage of it, it is loyalty and virtue to do so—it is a duty to the country—it tends to preserve its peace—to show the people of Ireland that they are not destitute of friends, and to hold out a hope, which I have no doubt will be realised, that the constitution shall again be restored, and that better days are yet to come. It may prove, too, that notwithstanding the treachery and the insolence with which our constitution and our liberties are now attacked, the people of Ireland are not yet abandoned, and that they have friends who will stand by them to the last. This bill I oppose, not as a bill of union, but of separation—as a bill calculated to dismember the empire—a bill to put down the loyalty of the country—a bill of robbery, not of legislation.”

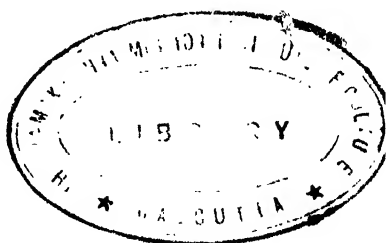
- He then adverted to Mr. May's argument that the Irish Parliament might, by admixture, reform the English Parliament:—

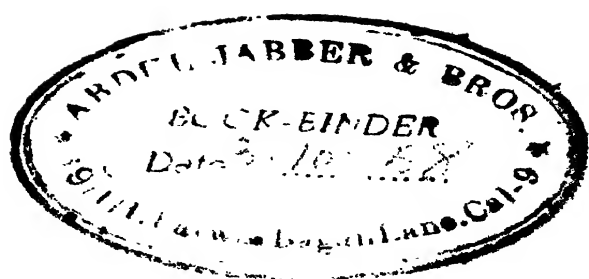
“This argument, so ingenious, I will not attempt to refute; nor do I wish to deprive a British parliament of any advantage they may derive from the infusion of such virtue and independence as that of the honourable gentleman; but I cannot help calling the attention of the house and of the country to the opinion expressed by the British minister himself of that class of men who are now to decide on the fate of Ireland. Into a British parliament twenty men only will be admitted of that description which now constitutes the minister's majority. Let no more than twenty placemen vote on the present question, and I would freely and cheerfully submit the fate of the country to their decision. Let the minister even retain all his placemen, and let him put the question on the constitution of Ireland to a ballot, and I will abide the issue. Let the gentlemen who hold places vote uninfluenced by the fear of losing their situations, and even they will act like Irishmen. Who, then, are this body of men to whose opinions we are asked to look up with so much reverence? They are men whom a British minister had declared too foul to pollute the walls of a British senate. Those men who are too base to enter the door of one parliament are to vote the extinction of another, and decide for ever upon the liberties of this country! I again repeat it emphatically, you are incompetent to pass this measure against the sense of the nation. Such an act in such circumstances must want the binding obligation of a law. If any person, petulant and ignorant, should accuse me of treason for this sentiment, I answer him but by scorn. My habits, my known principles, and the whole tenor of my life give the lie to the imputation.

“The noble lord has talked in high-sounding terms of the ease with which he would put down another rebellion, should this measure produce one; but if a future rebellion should not rouse the noble lord to more valorous exertion than he made during the last, the country cannot safely depend much upon the prowess of the noble lord. Sir, who put down that rebellion? I look around me, and I see the men to whose exertions we owe our deliverance. These are the men whose courage and loyalty restored peace to the country while the

noble lord was lounging about the Castle—if not more wickedly employed in plotting the destruction of the constitution of his country. As to the part which I have taken in opposing this measure, I look upon it as the proudest honour of my life. By it I wish to be remembered by posterity—it is an inheritance I am glad to transmit to my children. The recollection of the part I have taken in common with the one hundred and twenty honest men who with incorruptible steadiness have defended the liberty of their country against the machinations of the noble lord, and those under whom he acts, will soothe me at my last hour, and soften the blow of death: nay, when I am called before the Almighty Power, in whom I believe and trust, I am willing to take in my hand the record of my opposition to this measure, in humble confidence that it may afford some atonement for the errors of which I have been guilty.”

The “Act for the Union of Great Britain and Ireland” (40th Geo. III. chapter 38) then passed, and on the 2nd of August, 1800, the last session of the last Irish parliament was brought to a close. If the patriotism of a few could have saved Ireland, then Ireland would have been saved by the virtues of Grattan, of Curran, of Plunket, and of those who stood beside them in the battle; but the number of the patriots was too small; venality had eaten into the vitals of the country, and religious animosity had paralyzed her strength. There is a Nemesis of Nations, and when nations are willing to sell their liberties to strangers, while they refuse an equality of rights to their own citizens, then the hour of retribution cannot be far distant. Nations, too, as Lucian tells us, die like men, and the shears of Atropos are ever ready to avengo the crimes of peoples, no less than of individuals.





923.2415/BUR



16385

